

MONTANA LEGISLATIVE HISTORY

Chapter 566 19 89

Bill H _____ S 201

Original bill & history ✓ C

H. Committee on Natural Resources

Hearing Date(s) Mar 10 ✓ C

_____ C

_____ C

_____ C

Date Out Mar 11 ✓ C

S. Committee on Natural Resources

Hearing Date(s) Jan 27 ✓ C

Jan 30 ✓ C

_____ C

_____ C

Feb 02 ✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

SENATE FINAL STATUS

1/30	HEARING		
1/30	FISCAL NOTE PRINTED		
1/30	COMMITTEE REPORT--BILL PASSED		
2/01	2ND READING PASSED	49	0
2/03	3RD READING PASSED	44	6

	TRANSMITTED TO HOUSE		
2/21	REFERRED TO STATE ADMINISTRATION		
3/07	HEARING		
3/07	COMMITTEE REPORT--BILL CONCURRED		
3/08	2ND READING CONCURRED	65	31
3/09	3RD READING CONCURRED	58	34

	RETURNED TO SENATE		
3/15	SIGNED BY PRESIDENT		
3/15	SIGNED BY SPEAKER		
3/16	TRANSMITTED TO GOVERNOR		
3/22	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 214	EFFECTIVE DATE:	10/01/89

SB 201 INTRODUCED BY KEATING, ET AL.
EXTEND THE BOARD OF OIL AND GAS CONSERVATION'S
EXEMPTION FROM MEPA

1/21	INTRODUCED		
1/21	REFERRED TO NATURAL RESOURCES		
1/27	HEARING		
1/30	HEARING		
1/31	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/02	2ND READING PASSED	30	18
2/04	3RD READING PASSED	30	20

	TRANSMITTED TO HOUSE		
2/21	REFERRED TO NATURAL RESOURCES		
3/10	HEARING		
3/13	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/15	2ND READING CONCURRED	76	10
3/17	3RD READING CONCURRED	87	10

	RETURNED TO SENATE WITH AMENDMENTS		
4/04	2ND READING AMENDMENTS CONCURRED	49	0
4/06	3RD READING AMENDMENTS CONCURRED	49	0

4/11	SIGNED BY PRESIDENT		
4/17	SIGNED BY SPEAKER		
4/17	TRANSMITTED TO GOVERNOR		
4/18	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 566	EFFECTIVE DATE:	10/01/89

SB 202 INTRODUCED BY THAYER, ET AL.
EXCLUDE AMUSEMENT OR RECREATIONAL EMPLOYEES FROM
OVERTIME COMPENSATION

1/21	INTRODUCED		
1/21	REFERRED TO BUSINESS & INDUSTRY		
1/23	FISCAL NOTE REQUESTED		
1/26	HEARING		
1/28	FISCAL NOTE RECEIVED		
1/30	FISCAL NOTE PRINTED		
2/03	COMMITTEE REPORT--BILL PASSED AS AMENDED		

SENATE BILL NO. 201

INTRODUCED BY KEATING, GILBERT, TVEIT, SMITH, REHBERG,
HARP, ELLISON, IVERSON, RAMIREZ, COBB, GALT, BOYLAN,
GUTHRIE, WALKER

IN THE SENATE

JANUARY 21, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
JANUARY 31, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 1, 1989	PRINTING REPORT.
FEBRUARY 2, 1989	SECOND READING, DO PASS.
FEBRUARY 3, 1989	ENGROSSING REPORT.
FEBRUARY 4, 1989	THIRD READING, PASSED. AYES, 30; NOES, 20.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 4, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
FEBRUARY 20, 1989	FIRST READING.
MARCH 13, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 15, 1989	SECOND READING, CONCURRED IN.
MARCH 17, 1989	THIRD READING, CONCURRED IN. AYES, 87; NOES, 10.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 4, 1989

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 6, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

Senate BILL NO. 201

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXTEND UNTIL JUNE 30, 1991, THE EXEMPTION OF THE BOARD OF OIL AND GAS CONSERVATION FROM THE REQUIREMENTS OF THE MONTANA ENVIRONMENTAL POLICY ACT WHEN ISSUING DRILLING PERMITS; REMOVING THE REQUIREMENT THAT THE BOARD MUST ADOPT A PROGRAMMATIC ENVIRONMENTAL STATEMENT; AND AMENDING SECTION 75-1-201, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-1-201, MCA, is amended to read:

"75-1-201. General directions -- environmental impact statements. (1) The legislature authorizes and directs that, to the fullest extent possible:

(a) the policies, regulations, and laws of the state shall be interpreted and administered in accordance with the policies set forth in parts 1 through 3;

(b) all agencies of the state, except as provided in subsection (2), shall:

(i) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on

man's environment;

(ii) identify and develop methods and procedures which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(iii) include in every recommendation or report on proposals for projects, programs, legislation, and other major actions of state government significantly affecting the quality of the human environment, a detailed statement on:

(A) the environmental impact of the proposed action;

(B) any adverse environmental effects which cannot be avoided should the proposal be implemented;

(C) alternatives to the proposed action;

(D) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

(E) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;

(iv) study, develop, and describe appropriate alternatives to recommend courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

1 (v) recognize the national and long-range character of
2 environmental problems and, where consistent with the
3 policies of the state, lend appropriate support to
4 initiatives, resolutions, and programs designed to maximize
5 national cooperation in anticipating and preventing a
6 decline in the quality of mankind's world environment;

7 (vi) make available to counties, municipalities,
8 institutions, and individuals advice and information useful
9 in restoring, maintaining, and enhancing the quality of the
10 environment;

11 (vii) initiate and utilize ecological information in
12 the planning and development of resource-oriented projects;
13 and

14 (viii) assist the environmental quality council
15 established by 5-16-101; and

16 (c) prior to making any detailed statement as provided
17 in subsection -(1)(b)(iii), the responsible state official
18 shall consult with and obtain the comments of any state
19 agency which has jurisdiction by law or special expertise
20 with respect to any environmental impact involved. Copies of
21 such statement and the comments and views of the appropriate
22 state, federal, and local agencies which are authorized to
23 develop and enforce environmental standards shall be made
24 available to the governor, the environmental quality
25 council, and the public and shall accompany the proposal

1 through the existing agency review processes.

2 (2) The department of public service regulation, in
3 the exercise of its regulatory authority over rates and
4 charges of railroads, motor carriers, and public utilities,
5 is exempt from the provisions of parts 1 through 3.

6 (3) (a) Until ~~the--board--of-oil-and-gas-conservation~~
7 ~~adopts-a-programmatic-environmental-statement,-but-no--later~~
8 ~~than~~ June 30, ~~1989~~ 1991, the issuance of a permit to drill a
9 well for oil or gas is not a major action of state
10 government as that term is used in subsection (1)(b)(iii).

11 (b) The board of oil and gas conservation ~~shall~~ may
12 adopt a programmatic statement by June 30, ~~1989~~ 1991, that
13 must include but not be limited to:

14 (i) such environmental impacts as may be found to be
15 associated with the drilling for and production of oil and
16 gas in the major producing basins and ecosystems in Montana;

17 (ii) such methods of accomplishing drilling and
18 production of oil and gas as may be found to be necessary to
19 avoid permanent impairment of the environment or to mitigate
20 long-term impacts so that the environment and renewable
21 resources of the ecosystem may be returned to either
22 conditions similar to those existing before drilling or
23 production occurs or conditions that reflect a natural
24 progression of environmental change;

25 (iii) the process that will be employed by the board of

1 oil and gas conservation to evaluate such environmental
2 impacts of individual drilling proposals as may be found to
3 exist;

4 (iv) an appropriate method for incorporating such
5 environmental review as may be found to be necessary into
6 the board's rules and drill permitting process and for
7 accomplishing the review in an expedient manner;

8 (v) the maximum time periods that will be required to
9 complete the drill permitting process, including any
10 environmental review; and

11 (vi) a record of information and analysis for the board
12 of oil and gas conservation to rely upon in responding to
13 public and private concerns about drilling and production.

14 (c) The governor shall direct and have management
15 responsibility for the preparation of the programmatic
16 statement, including responsibility on behalf of the board
17 of oil and gas conservation for the disbursement and
18 expenditure of funds necessary to complete the statement.
19 The facilities and personnel of appropriate state agencies
20 must be used to the extent the governor deems necessary to
21 complete the statement. The governor shall forward the
22 completed draft programmatic statement to the board of oil
23 and gas conservation for hearing pursuant to the provisions
24 of the Montana Administrative Procedure Act, Title 2,
25 chapter 4. Following completion of a final programmatic

1 statement, the governor shall forward the statement to the
2 board for adoption and use in the issuance of permits to
3 drill for oil and gas."

-End-

CHAIRMAN--TOM KEATING
SECRETARY--HELEN MCDONALD
NORMAL SCHEDULE==> SITE: ROOM 405

COMMITTEE--(S) NATURAL RESOURCES
DAYS: M,W,F TIME: 1:00 P.M.

OFFICE--

REFER	NOTE: BILL WILL BE LISTED TWICE IF REREFERRED BACK TO THE SAME COMMITTEE
BILL ===== DATE === LATEST DATE/ACTION ON BILL =====	
SB 3 01/02 03/18--(S) CHAPTER NUMBER SPONSOR: MAZUREK, JOE	EFFECTIVE DATE: 10/01/89 TITLE-REVISE REPORTING REQUIREMENTS AND PAYMENT OF TAXES FOR METAL MINES AND RITT
SB 29 01/03 03/20--(S) CHAPTER NUMBER SPONSOR: GAGE, DELWYN	EFFECTIVE DATE: 03/20/89 TITLE-PROVIDE RULEMAKING AUTHORITY TO BOARD OF OIL AND GAS FOR SEISMIC SHOT HOLES
SB 154 01/16 03/15--(S) CHAPTER NUMBER SPONSOR: NATHE, DENNIS	EFFECTIVE DATE: 10/01/89 TITLE-CONFIDENTIALITY OF CERTAIN STATE LANDS LEASE INFORMATION
SB 161 01/17 03/29--(S) CHAPTER NUMBER SPONSOR: HARP, JOHN	EFFECTIVE DATE: 10/01/89 TITLE-ADJUSTMENT OF TIMBER PURCHASER'S NONPERFORMANCE BOND TO ACTUAL COST
SB 201 01/21 04/18--(S) CHAPTER NUMBER SPONSOR: KEATING, TOM	EFFECTIVE DATE: 10/01/89 TITLE-EXTENDING THE BOARD OF OIL AND GAS CONSERVATION'S EXEMPTION FROM MEPA
SB 211 01/21 02/15--(S) 2ND READ INDEFINITE POSTPONED SPONSOR: PINSONEAULT, DICK	TITLE-ALLOW ZONING AND PLANNING RESTRICTIONS ON OPENCUT MINING
SB 223 01/25 03/15--(H) TABLED IN COMMITTEE SPONSOR: KEATING, TOM	(H) NATURAL RESOURCES TITLE-REDEFINING THE MAJOR FACILITY SITING ACT DEFINITION OF UTILITY
SB 224 01/25 02/14--(S) ADVERSE COM RPT ADOPTED SPONSOR: KEATING, TOM	(S) NATURAL RESOURCES TITLE-REVISING COAL TAX ALLOCATIONS; DEPOSITING IN GENERAL FUND
SB 225 01/25 02/14--(S) ADVERSE COM RPT ADOPTED SPONSOR: KEATING, TOM	(S) NATURAL RESOURCES TITLE-ELIMINATE RIT INTEREST INCOME ALLOCATION TO RENEWABLE RESOURCE DEVELOPMENT
SB 226 R 01/25 04/28--(H) SIGNED BY SPEAKER SPONSOR: HIMSL, MATT	TITLE-VALUE CABIN SITES ON STATE LANDS AT 1.5% OF VALUE SET BY COUNTY APPRAISER
SB 238 01/25 02/17--(S) ADVERSE COM RPT ADOPTED SPONSOR: KEATING, TOM	(S) NATURAL RESOURCES TITLE-SUSPENDING POWERS OF COAL BOARD; ELIMINATING LOCAL IMPACT ALLOCATION
SB 243 01/26 03/18--(S) CHAPTER NUMBER SPONSOR: KEATING, TOM	EFFECTIVE DATE: 10/01/89 TITLE-DELETE REQUIREMENT THAT DOR PROVIDE FORM FOR ENERGY-CONSERVING EXPENSE
SB 295 01/31 03/14--(H) TABLED IN COMMITTEE SPONSOR: HAGER, TOM	(H) NATURAL RESOURCES TITLE-LIMIT LIABILITY IN HAZARDOUS WASTE SPILL CLEAN-UPS
SB 321 R 02/02 03/30--(S) CHAPTER NUMBER SPONSOR: BECK, TOM	EFFECTIVE DATE: 03/30/89 TITLE-GENERALLY REVISE HAZ WASTE ACT, INCLUDING UNDERGROUND TANKS AND RELATED FEES
SB 327 02/02 03/15--(H) TABLED IN COMMITTEE SPONSOR: KEATING, TOM	(H) NATURAL RESOURCES TITLE-EXEMPT CERTAIN AGENCY ACTIONS FROM MEPA EXCEPT UNDER CERTAIN CONDITIONS
SB 371 02/08 03/30--(S) CHAPTER NUMBER SPONSOR: HAGER, TOM	EFFECTIVE DATE: 03/30/89 TITLE-GENERALLY REVISING THE MONTANA HAZARDOUS WASTE ACT
SB 435 02/15 04/24--TABLED IN COMMITTEE SPONSOR: TVEIT, LARRY	TITLE-CREATE OIL AND GAS OWNERS LIEN
SJ 4 01/17 04/24--TABLED IN COMMITTEE SPONSOR: RAPP-SVRCEK, PAUL	TITLE-URGING PARITY LEVELS IN THE PRICE OF RAW MATERIALS
SJ 19 03/27 04/28--(H) SIGNED BY SPEAKER	

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION
COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairman Thomas F. Keating, on January 27, 1989, at 1 p.m. in Room 405 of the State Capitol.

ROLL CALL

Members Present: Senators; Thomas F. Keating, Chairman, Larry Tveit, Fred VanValkenburg, Loren Jenkins, Darryl Meyer, Pete Story, Bill Yellowtail, Elmer Severson, Cecil Weeding, Dorothy Eck and Jerry Noble.

Members Excused: None

Members Absent: Senator Larry Stimatz

Staff Present: Bob Thompson and Helen McDonald

HEARING ON HOUSE BILL 82

Presentation and Opening Statement by Sponsor:

Representative Mark O'Keefe, Lewis and Clark County, District 45, introduced this bill to designate the last Friday of April as Arbor Day and as an official day of observance in Montana.

List of Testifying Proponents and What Group they Represent:

Mark O'Keefe, Representative
Michael Hier, Nurseryman
Kevin Olson, Montana Logging Association

List of Testifying Opponents and What Group They Represent:

None

Questions From Committee Members: Senator Keating hopes this doesn't lead to another state holiday.

Representative O'Keefe answered it would make the third Friday in April an observance much like Flag Day.

Closing by Sponsor: Representative O'Keefe closed the hearing on this bill noting that it is very important for future Montanans to receive what this generation

has now in many of our communities in the area of trees. Some of our communities have older stock that trees are reaching maturity and no effort has been made to replant them. On Arbor Day of this year, there is a Centennial project between the Department of State Lands and all the schools in Montana to plant two different species of Ponderosa Pine in different parts of the state. This will be a Centennial event for every school in the state.

DISPOSITION OF HB 82

Discussion: None

HEARING ON SENATE BILL 201

Presentation and Opening Statement by Sponsor: Senator Thomas F. Keating opened the hearing on this bill and stated it is merely an extension of the bill that legislature approved last session. It is a very simple and straight forward extension. It deals with the Montana Environmental Policy Act and the permits for oil and gas wells. On Page 4, the bill as presented last year allows oil and gas permitting under MEPA. The governor wanted to add a requirement for a programmatic study of the ramifications of permitting and for the study to make suggestions to the oil and gas commission for adoption. Permits for drilling were exempted under MEPA until 1989 and this bill extends that until 1991.

In explaining this bill, Senator Keating explained that section (3)(b), on page 4 states that the Board of Oil and Gas Conservation shall adopt a programmatic by June 30, 1989. This bill is amended that to say the programmatic may be adopted by June 30, 1991. The extension is obvious but the change from "shall" to "may" is to bring the law into conformance with the intention of the programmatic itself. To meet the requirements of SB 184, the board may choose to implement some of the alternatives discussed in the programmatic. The programmatic itself was not conclusive but was designed to make recommendations to the oil and gas commission in various areas from which it could draw suggestions to add to it's procedures and to eventually adopt into it's rules and the programmatic itself. This document cannot resolve existing legal ambiguities concerning limits of the board's authority. It was suggested that in amending the law that the Board of Oil and Gas Conservation

could adopt from the programmatic those parts of the suggested procedure suitable in determining whether oil and gas permits are a major or minor action. That is this bill simply put. It is an extension for 2 years. The programmatic is quite extensive and it would be extremely difficult for the board to go through this document and have public hearings by June 30, 1989. For that reason, an extension is asked for.

List of Testifying Proponents and What Group they Represent:

James C. Nelson, Board of Oil and Gas
Joe Keating, CENEX, Billings
Dean A. Swanson, Board of Oil and Gas
Doug Abelin, Montana Oil & Gas Association

List of Testifying Opponents and What Group They Represent:

Hope Stevens, Self
Robert Dozier, Northern Plains Resource Co.
Janet Ellis, Audobon Society
Bob Stevens, Self
Kim Wilson, Sierra Club
Stan Bradshaw, Trout Unlimited

Testimony:

James C. Nelson, Chairman of the Board of Oil and Gas, stated an extension of the time mandated is needed to adopt the programmatic. They are running a least a month behind. The draft is at the printers now and won't be finished until next week. When the board gets it, then they will study it because they have not been directly involved in the drafting of the document. That process is somewhat complicated because four of the seven members of the board are up for appointment. Essentially a majority of the board is going to come in completely cold. It's the board's intention and desire to comply with the law and have a credible document, that is useful to the board and the public at large. The document covers every facet and every phase of the oil and gas industry and every phase of the board's operation. The board wanted public input and doesn't feel the time frame given is enough to get information from all of the public sectors.

Dean Swanson, member of the Board of Oil and Gas, is asking on behalf of the board for support of the extension. He was appointed to the board 2 years ago when SB 184 mandated the programmatic. He felt that 2 years was enough time to come up with a workable programmatic. This has not been done. It also appears

that it is not possible to complete the review of the programmatic by June 30, 1989. Since 1967 the board has issued over 17,000 drilling permits. The board has not had any problems with the exception of the Bridger Canyon drilling operation. The risk to the environment at this time from the proposed extension is very minimal. The Bridger Canyon episode was a dry hole so nothing really happened as a consequence. It's the board's responsibility to do whatever it can in oil exploration.

Joe Keating is employed by Cenex as General Manager of the Exploration and Production Department. [Exhibit 1]

Hope Steven's family has a ranch in the Big Timber area and is extremely concerned about the consequences of this bill. She felt that the oil and gas companies are not living up to their responsibilities in making sure that in the process of drilling for oil and gas that the environment is being protected. They have a lease with an oil company and decided to investigate possible environmental damage that could result from drilling. A geologist was consulted who warned the Stevens' about possible hazards. These hazards included the amount of water needed to drill and how it could affect the water supply on the ranch especially during severe drought; the composition of the drilling mud if certain additives are used; and the danger of fire during the drilling. When a letter from an attorney was sent to the company, the drilling was postponed. The Stevens' felt that oil and gas companies, when approaching property owners for a lease, should explain the possible hazards involved.

Stan Bradshaw, Trout Unlimited, stated that SB 184 was a unit of negotiation between the interested parties. He was dismayed about the way this has arisen. Given that SB 184 was a negotiating process, it seemed to him it would be appropriate for the proponents of this extension should bring together representatives of various groups, discuss it and let the people know the problems and how they propose to solve them.

Bob Stevens has been a travel agent for 24 years. He knew about the Bridger Canyon problem and thinks more problems like this one will occur. If a line is drawn between Billings and Great Falls, west of that line is the part of our state that is most heavily impacted by tourism. This is the area that is most populated and where most of the important national heritages are in the state. These are sensitive areas and seem to be best adapted for recreation use. The tourism industry

is growing in the western half of Montana. In the year 2000, it will be the No. 1 industry in the state. The oil and gas industry should have a policy within itself to restrain its activities in these most sensitive areas. Private solutions are better than government solutions but if private industry is not being responsible, it will invite counter-reaction. We have some of the most priceless landscape in the world here and we don't want it harmed.

Kim Wilson, from the Sierra Club indicated that some permits to drill gas and oil, just like any other kind of environmental action, may not result in a major impact on the environment. Whether the permit resulted in a major or minor impact, however, should not be predetermined in advance by a government agency. Those things should be determined on a site-by-site basis. That is what SB 184 two years ago was directed to address. The Sierra Club doesn't think it's good public policy to hold the state open to resource development and completely ignore the environmental consequences. The club sees SB 201 as a step in that direction and doesn't like it. The legislature should not follow through with the promises of SB 184 and the agreements that were reached two years ago. It is understood that there would be a slight delay in producing this final report. It doesn't seem to justify a two-year delay.

Janet Ellis, Audubon Society stated that the society feels that the Board of Oil and Gas can accept the programmatic by the June 30, 1989. When the draft programmatic is out next week it starts a time clock. There is a 60-day comment period and that should be over by April 1st. The staff can incorporate those comments in the final EIS and it could be out by June 1, 1989. They have a 2-week comment period which puts it in mid-June. There is a good chance that the board could finish the programmatic by the deadline. This could happen because most of the arguments have already been brought up. The board should be asked how much time it needs, and it should not be given a blanket 2 years. It doesn't make sense if they are a month behind to give them two years. Unless this bill is amended, the Audubon Society suggests that this bill not pass.

Bob Dozier of the Northern Plains Resource Council thinks it's pretty obvious that two years ago an agreement was struck to wait for the programmatic environmental assessment. Now that it's ready to come out, the oil and gas industry decides it doesn't need to be regulated by

anything and are trying to pass this bill. The problem will exist for two more years if this bill passes. The industry is trying to get out of MEPA one more time.

Questions From Committee Members:

Senator Weeding wants to know the purpose of changing the "shall" to "may".

Senator Keating answered that the programmatic states it is not a final statement. The board may adopt all or any part of the programmatic. This was merely put into the law to make it more to the intent of the programmatic itself.

Senator Weeding asked if the board chooses not to adopt the programmatic then the language doesn't have to be changed.

Senator Keating responded that the board has the option to take what they want from the programmatic, if anything. The Board of Oil and Gas has the authority to determine procedures and rules governing permitting. It decides the legal procedure for permitting and it decides what should be taken from the programmatic. The agreement two years ago was that there would be a programmatic within the time limit. The programmatic has not been delivered in a timely manner and therefore the the extension is requested.

Senator Yellowtail asked Mr. Nelson, Chairman of the Board, about the "shall" versus "may" and why it was necessary to make the change.

Mr. Nelson answered that the "shall" versus "may" was a distinction without a difference. If the EIS isn't adopted by June 1989 and the language is changed to "may", the practical consequence is the same.

Senator Yellowtail stated that Mr. Nelson's answer was an interesting analysis but the law now says "that you shall adopt this".

Mr. Nelson remarked that it was the board's intention to comply with the law.

Senator Yellowtail stated that if the law changes then you have nothing to comply with.

Mr. Nelson answered that the consequence of the board not developing the EIS would be that the issuance of a drilling permit could be considered a significant state

action.

Senator Yellowtail wanted to know if the extension was granted, would there any requirement to comply with the law until 1991.

Mr. Nelson answered that the "shall" versus "may" ties into the date.

Senator Eck wanted to know if the board would have any objection to changing the language back to "shall".

Mr. Nelson answered that the board will comply with the law whether it's "shall" or "may".

Senator Eck wanted to know what kind of a programmatic would be acceptable.

Senator Keating answered that the law must be obeyed in letter and spirit. The time element is important in completing the programmatic properly.

Senator Eck asked how much more time was needed.

Mr. Nelson answered that the board will use whatever time the legislature allows it.

Senator Jenkins mentioned that the programmatic was big and would go to the public for final hearings.

Mr. Nelson answered that it would send the document to interested people across the state, redraft it as necessary to incorporate the public's comments and then arrive at a final draft.

Senator Jenkins commented that the commission had a pile of work before the final programmatic becomes a finished product.

Mr. Nelson noted that the work accomplished up to this date has not been accomplished by the board, but by the technical advisory committee. He noted that these people have put in thousands of hours, and, now it's up to the board to review what the advisory council and technical committee have drafted and get more public comment for the final draft.

Senator Jenkins asked about the makeup of the board.

Dee Rickman answered that the statute provides for certain members.

Senator Yellowtail asked Kevin Hart about the draft, noting that the committee members are operating here without having seen the draft. There have been some serious charges about material contained in the draft.

Kevin Hart answered that the process follows the requirement and rules of the Montana Environmental Policy Act. A draft EIS is issued to the public with a 60-day comment period. Written comment would be accepted on the material contained in the draft. The draft should cover the provisions contained in SB184.

The draft provides a record of information to be used in future drilling permits. Chapter 5 is essentially alternatives which the board can pick and choose from when deciding how to implement the MEPA in the future. The document will be sent to the public on Tuesday of next week and that will start the comment period which ends on March 31. After the comment period closes, the technical staff will prepare the final EIS. The new information that becomes evident upon publication of the draft will be published in the final document and should comply with SB184.

There is some question now because of the change of administration whether the oil & gas advisory council, which was started under the Schwinden administration, will continue to be in effect. There is a 15-day comment period after release of the final. The project schedule now calls for a final EIS on June 1st. The 15-day comment period ends on June 15. This gives the board 15 days to make a decision. The board has a hearing date on June 29 to make a decision.

Senator Yellowtail wanted to know what sort of policy options are being presented to the board.

Kevin Hart commented that the council has to provide a quick way for the board to review individual drilling for the type of impacts that would be likely to occur. That quick review is called an environment check list. A copy of check list is contained in Chapter 5 of the EIS.

Senator Tveit commented on a line drawn between Billings and Great Falls. We have oil wells in Eastern Montana and west of that line there are no oil wells.

Bob Stevens indicated that he lived in Western Montana and didn't know the situation in Eastern Montana like he did in Western Montana.

Senator Tveit commented to Hope Stevens about an oil company leasing the Stevens' land to drill an oil well and the Stephens' contact with a geologist. He stated he has oil wells on his place and deals with many oil companies, and gets along with them very well. There are other associations to talk to like a mineral association. They would tell you what to expect and what to demand from an oil company.

Hope Stevens answered that oil companies should inform people of possible hazards. The oil companies should inform the lessees that hazards might be possible before they sign a lease.

Senator Eck stated that she had extensive discussions with people in Bozeman but also talked with drilling operators in Wyoming. Their comments were that the major oil companies had no problem abiding with environmental restrictions. They drilled a lot on federal land when environmental restriction were required and they thought it made them better and safer operators.

Joe Keating commented that it's the best judgment of the permitting agency, whether it's the Bureau of Lands or the Oil and Gas Commission, as to what procedures should be followed. The permit is then subject to public challenge. The permitting agency has the responsibility to make the judgment and investigate to make the conclusion. Regardless of their decision, they are subject to public response. The recourse is always back to the permitting agency. If the agency issues a permit with an environmental statement, not the programmatic we are talking about but an environmental impact statement, they have declared that is not a major action in state government.

Senator Yellowtail assumed that the advisory council is responsible and wanted to know if the council is responsible for overseeing and developing the EIS and perhaps approving it.

Joe Keating hasn't seen the first draft yet, that's part of the complaint. The advisory council has not yet seen the draft of the programmatic .

Senator Yellowtail wanted to know about sections 4 and 5 of the programmatic.

Joe Keating understood that it was out and there are two copies in the room. He stated that it's impossible for that document to provide an environmental framework on

which the oil and gas commission can make a decision in issuing oil and gas permits.

Senator Yellowtail questioned Mr. Keating's appointment to the advisory council knowing this.

Joe Keating answered that he developed that opinion after two years on the council. It is an injustice to the Oil and Gas Board to dump this on them and say "here guys, make it work".

Closing by Sponsor:

Senator Keating closed the hearing pointing out that the blowout at Fairview was from a producing well which was permitted years ago and would not be affected by this measure at all. This measure would have affected that well before it was drilled. It was an equipment failure after years of use. There was no evacuation plan when the well blew out for 50 minutes with this very dangerous and toxic gas and yet there were no injuries at all. No one was hurt and the workers restored the well very shortly.

The oil and gas industry has been operating in the state longer than the detractors have been living and there hasn't been any great environmental disasters in the state. Black Leaf Canyon has a gas field that is operating within the overthrust belt west of Great Falls. In Canada there is a huge oil and gas field which deals with hydrogen sulphide gas in great quantities. It is 10 miles from Waterton Lake which is a resort area. They were about 25 producing wells. The gas is processed and one of the most profitable parts of the operation is the sale of the sulfur that is extracted from the gas. They have been operating for 25 years with no injuries and no evacuations so the policies of the industry are safe. One of the first wells drilled in Montana was at a lake which is now within the Glacier Park boundary.

Senator Keating questioned that If oil and gas explorations and production is so devastating why then is not Montana a desert? As a matter of fact the oil and gas industry has not done any damage to this state in 70 years. The oil and gas industry has reclaimed every disturbance that it has made and it has added considerably to the economics of this state in providing jobs, producing new wealth and revenues for all kinds of purposes. It has cleaned up its mess when it is done.

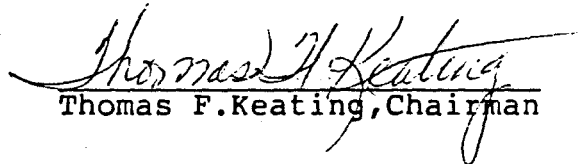
Oil and gas permitting has been exempt from MEPA for a year and half and there is no devastation. There have not been any wells permitted in any area that has done any environmental damage whatsoever so it's safe to allow an extension of the time to the Board of Oil and Gas to make the determination that they need to make in order to comply with the law, protect the environment, and the general public. Mr. Keating urged the committee to please avoid all the misinformation, calm your fears and give the board a little consideration and time to do the job.

DISPOSITION OF SB 201

Discussion: The hearing is closed and the meeting adjourned.

ADJOURNMENT

Adjournment At: 3:45 p.m.


Thomas F. Keating, Chairman

senmin.127

TFK/hmc

ROLL CALL

NATURAL RESOURCES

COMMITTEE

51~~st~~ LEGISLATIVE SESSION -- 1989

Date 1-27-89

NAME	PRESENT	ABSENT	EXCUSED
Chairman Tom Keating	✓		
Vice-Chairman Larry Tveit	✓		
Senator Fred VanValkenburg	✓		
Senator Loren Jenkins	✓		
Senator Darryl Meyer	✓		
Senator Lawrence Stimatz			
Senator Pete Story	✓		
Senator Bill Yellowtail	✓		
Senator Elmer Severson	✓		
Senator Cecil Weeding	✓		
Senator Dorothy Eck	✓		
Senator Jerry Noble	✓		

Each day attach to minutes.



SENATE NATURAL RESOURCES
EXHIBIT NO. 1
DATE 1-27-89
BILL NO. SB 201

CENEX • Post Office Box 21479 • 2220 Grant Road • Billings, Montana 59104 • (406) 656-4343

PS/

Montana State Senate
Natural Resources Committee
Helena, Montana 59620

RE: SB 201 - Hearing January 27, 1989
Board of Oil and Gas Exemption
from MEPA until June 30, 1991

Mr. Chairman:

Thank you for the opportunity to present comments on this proposed legislation. I favor SB 201.

My name is Joe Keating. I am employed by CENEX as General Manager of the Exploration and Production Department located in Billings. As such, I was appointed by Governor Schwinden to serve on the Oil and Gas Programmatic Statement Advisory Council.

The council consists of eight persons appointed by the Governor to represent the interests of state agencies, the federal government, landowners and the oil industry. The council is charged to advise in drafting a Programmatic Environmental Impact Statement relative to oil and gas exploration and development in Montana. The Statement is to be drafted by a Technical Committee also appointed by the Governor comprised of nine state employees representing various agencies.

These two groups came into being with passage and signing of SB 184 effective April 15, 1987, which provided that issuance of a permit by the Board of Oil and Gas to drill a test well would be exempt from the Montana Environmental Policy Act until a Programmatic Environmental Statement is adopted but no later than June 30, 1989.

Ex. #1

1-27-89

PS2

The Advisory Council has met seven times in the Programmatic process:

July 7, 1987
September 17, 1987
February 26, 1988
July 11, 1988

August 24, 1988
October 17, 1988
October 18, 1988

In addition, a series of meetings was held across the state for public attendance and input.

The first draft of the complete Programmatic has not yet been reviewed by the Advisory Council. Reportedly this is due soon. Following final review, the document is to be circulated for public comment. A redraft is expected after public input. That final draft will be delivered by the Governor to the Board of Oil and Gas for an acceptance process. It is expected that the June 30, 1989 date provided in SB 184 cannot be met if the Board of Oil and Gas is to adopt a meaningful document.

For this reason, as an Advisory Council member, I strongly urge adoption of SB 201.

Secondly, for the record, I believe this Senate Committee should be aware of the content and value of the Statewide Programmatic Environmental Statement that was legislated under SB 184.

SB 184 provided that the Programmatic Statement shall include:

1. such environmental impacts as may be found associated with oil and gas drilling and production;
2. such methods that may be found to mitigate or avoid long term impacts that may be caused by drilling or production;
3. the process that will be employed by the Board of Oil and Gas to evaluate potential impacts;
4. a method of incorporating environmental review in the Board rules to provide for an expedient process;
5. the maximum time periods that will be required for the permit process; and
6. a record of information and analysis for the Board to rely on in responding to public and private concerns.

At the last Advisory Council review on October 17, 1988, after which many amendments were submitted, the Statement consisted of some 365 pages, plus appendices, divided into five chapters as follows:

- Chapter One: Introduction and background of the impact statement.
- Chapter Two: A description of oil and gas drilling and production operations.
- Chapter Three: Roles and responsibilities for oil and gas operations.
- Chapter Four: Description of impacts and mitigating measures.
- Chapter Five: A summary of impacts and mitigating measures. Topics for potential Board rule revision. Possible permit review process. Possible Board evaluation of environmental impacts. Possible Board relationship with other agencies. Possible Board staffing and budget.

In my opinion, Chapters One, Two and Three are well written and very factual for the uninformed to acquire information about the oil and gas industry in Montana and the regulatory structure.

However, Chapter Four which contains the only material pertaining to environmental issues is general in nature. It is stated numerous times that Montana is too large and geographically diverse to specifically identify the potential environmental impacts and potential mitigating measures for all areas. Instead, a general presentation with some examples constitutes the entire investigation of environmental concerns and remedies.

Again, in my opinion, Chapter Four is not what appears to be legislated in SB 184 as to providing an environmental review and a record of information and analysis for Board reliance.

Chapter Five, after again referring to impacts and mitigation, is a list of suggestions that the Board of Oil and Gas may consider in order to

Ex. #1

1-27-89

pg 4

do a better job of investigating and making decisions on environmental concerns.

Clearly, Chapter Five is not the directive contained in SB 184 which provides that the Statement will contain the process to be used by the Board in evaluating impacts, will contain a method of review and will contain the time tables for processing.

What I view as a failure to comply with SB 184 is not the fault of the Technical Committee nor the Advisory Council. It appears that SB 184 dictates a monumental task that cannot be accomplished in any reasonable period of time for any reasonable amount of money. Also SB 184 has created the potential for enormous conflict, inefficiency and bureaucratic breakdown by authorizing an executive committee to deliver a mandated blueprint to the Board of Oil and Gas directing how it will conduct its business.

As a working member of the Advisory Council who has made many contributions to the Statement required under SB 184, I predict the final document will not contain what was legislated and will be of no practical value to the State of Montana.

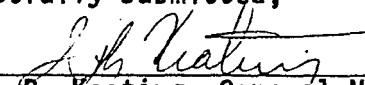
If the members of the Senate have concerns regarding the operation of the Board of Oil and Gas, these concerns should be dealt with directly. SB 184 appears to be a costly effort to create an executive committee with authority to direct the functions of the Board of Oil and Gas.

Your support of SB 201 is respectfully requested.

Thank you.

Respectfully submitted,

By:


J. R. Keating, General Manager
CENEX Exploration and Production



Montana Audubon Legislative Fund



Testimony on SB 201
Senate Natural Resource Committee
January 27, 1989

SENATE NATURAL RESOURCES

EXHIBIT NO. 2

DATE 1-27-89

BILL NO. SB 201

Mr. Chariman and Members of the Committee,

My name is Janet Ellis and I'm here today representing the Montana Audubon Legislative Fund. The Audubon Fund is composed of 9 Chapters of the National Audubon Society and has over 2500 members in Montana.

The Audubon Fund opposes SB 201 in its present form.

The Montana Environmental Policy Act (MEPA) is designed to review "major actions" of state government that are "significantly affecting the quality of the Human environment." Such actions require the preparation of an Environmental Impact Statement - a process that allows alternatives to be examined and the public to have a voice when something "significant" is about to happen to their environment.

This policy makes sense. It allows Montanans to stop and think and plan when something "significant" is about to happen to our environment.

Generally, oil and gas drilling does not "significantly" affect our environment. With that in mind, the 1987 Legislature passed SB 184 to call for a programmatic environmental statement to be done in order to expedite processing oil and gas drilling permits that will create minor or no environmental impacts. That programmatic environmental statement should be ready for the Board of Oil and Gas Conservation to adopt by June of this year. With the adoption of that programmatic, a check-list for LEGALLY DEFENSIBLE, MEPA-complying review could also be adopted. It is true that the rules facilitating the programmatic review will not be adopted by June 30. It is our assessment, however, that the rule completion is not necessary for the Board of Oil and Gas to be in compliance with MEPA - passage of the check-list is the only requirement. For this reason, we do not feel that it is necessary to exempt oil and gas from MEPA for two more years.

The second aspect of the bill that concerns us, is the section removing the requirement that the Board of Oil and Gas adopt the programmatic. Why shouldn't they adopt it? Adopting the programmatic is designed to expedite the process of review for standard (low or no impact) projects. It will provide for a legally defensible review of projects with minor impacts. It will give landowners better information regarding potential impacts while negotiating a lease for an oil and gas well. It will allow the board to emphasize preventive measures to avoid unnecessary environmental damage before drilling occurs: such as determining proper construction and reclamation procedures that need to be considered.

The benefits of adopting the nearly completed programmatic are many. The disadvantages of not adopting it are many: driving wedges between interested parties who want this issue resolved and continuing the debate between people who have worked hard to compromise.

Please let us move forward - not backward. Vote "Do not pass" on this regressive measure.

WITNESS STATEMENT

NAME: TOM RICHMOND DATE: 1-27-89

ADDRESS: 2535 ST JOHN'S AVE, BILLINGS

PHONE: 656-0040

REPRESENTING WHOM? BOARD OF OIL & GAS

APPEARING ON WHICH PROPOSAL: SB 201

DO YOU: SUPPORT? V AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

57

76

NAME: JAMES C. Nelson DATE: 1-28-89

ADDRESS: Box 428 COT BANK MT 59427

PHONE: 873-2277

REPRESENTING WHOM? BOARD of OIL & GAS

APPEARING ON WHICH PROPOSAL: 201

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

WITNESS STATEMENT

NAME: DEAN A. SWANSON DATE: 1-28-81

ADDRESS: P.O. Box 2337, Billings, Mt. 59103

PHONE: 259-7668

REPRESENTING WHOM? Board of Oil & Gas Conservation

APPEARING ON WHICH PROPOSAL: SB 201

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

DATE 1-27-89

COMMITTEE ON

Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
DEAN A. SWANSON	Board of Oil & Gas	SB201	X	
DOUG ABELIN	MONTANA OIL & GAS ASSN	SB201	✓	
KELLY Cawody	BN	SB201+		
Janelle Fallon	MPA	201	✓	
JAMES C. NELSON	BOARD of Oil & GAS	201	X	
Doug Smith	Shelden Co.	201		X
Robert Dozier	Northern Plains Res. Co	201		X
Hope Stevens	Box 459- Bozeman self	201		X
Janet Ellis	MT Audubon	201		X
Mark O'Rourke	HD 4.5	82	X	
Tom Richmond	BOARD OF OIL & GAS	201	✓	
Harold Ude	CENEX	201	X	
Corinne Courtney	CENEX	201	X	
Joe Ketting	CENEX		X	
Michael Hiel	NRASSG man	H682	X	
Norm Anderson	Shell Oil Company	SB201	✓	
Bill Stevens	Bozeman self	201		X
BRACE HAYDEN	myself	201		X
Suzanne Hauler	self	201		X
W. David Darby	O&G Drilling Advisory Council	201		
Kerrin Hart	OJ + Gas Programmatic - Project Man	201		
Jim Jensen	MEIC	SB201		X
Kim Wilson	Sierra Club	SB201		✓
Gay Halgerson	MT Audubon	SB 201		✓
Stan Brinkman	Trout Unlimited	SB201		✓
Jan Cool	Exxon	SB 201	X	

(Please leave prepared statement with Secretary)

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MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairman Thomas F. Keating, on January 30, 1989, at 1 p.m. in Room 405 of the State Capitol.

ROLL CALL

Members Present: Senators Thomas F. Keating, Chairman,, Loren Jenkins, Fred Van Valkenburg, Darryl Meyer, Pete Story, Bill Yellowtail, Elmer Severson, Cecil Weeding, Dorothy Eck, Jerry Noble, Larry Tveit.

Members Excused: None

Members Absent: Senator Lawrence Stimatz

Staff Present: Bob Thompson and Helen McDonald

EXECUTIVE ACTION ON HB 82

This Arbor Day bill was sponsored by Representative Mark O'Keefe and Senator Dorothy Eck.

DISPOSITION OF HB 82

Senator Jenkins made a motion to DO PASS. All were in favor.

EXECUTIVE ACTION ON SB 201

Senator Yellowtail proposed an amendment on SB 201. The amendment provides for a 90-day extension of time to the board. Senator Yellowtail stated that the testimony didn't indicate that a full two-year extension is necessary and that this amendment is consistent with SB 184 from last session.

Senator Jenkins stated that if it took 2 years to get to this point and there still has to be public hearings and input in order to get a qualified job maybe it will take another two years.

Senator Weeding commented that state agencies usually take up all the time that is allotted. SB 184 wasn't any burden on the industry but he expected the council to proceed

expeditiously.

Senator Story wondered about the number of oil rigs operating in Montana in 1980.

Senator Keating answered that in 1981 and the peak was 94 rigs at one time. There were three this week and four last week. There was more oil exploration activity in one month then than is expected in the next two years.

Senator Eck mentioned that in the testimony it was stated that there would be no burden on the industry resulting from review under the Montana Environmental Policy Act.

Senator Keating stated that Sohio after their experience in Bridger Canyon was never coming back to Montana because of the burden of MPEA.

Senator Weeding stated that the Bridger Canyon land owners association was the group responsible for that action.

Senator Keating stated he was involved in that situation and the threat of MEPA had a tremendous impact on the final operation plan that Sohio developed. The plans were developed specifically to meet the requirements of MEPA, and those requirements cost about a million and half dollars extra to the operating plan for the company's 12 to 15 thousand foot well. That was more than the company could tolerate and they made the decision not to come back. It was felt we drove out investment that could benefit the state.

Senator Keating added that a 90-day extension is not enough. The council has tentatively approved the draft but has not had an opportunity to complete it. The board and the council commission need more time. The council should be allowed an intervening legislative session and if something comes up that needs legislation within the two-year period it can be handled in the next legislature. The legislature thought two years would be long enough but it wasn't. The acceptance procedure and process should not be any shorter than the programmatic development procedure. Public hearings will have to be held. The programmatic will need to be adjusted. It will be difficult to develop the check list necessary for various parts of the state.

Finally Senator Keating stated that during the past 2 years when oil was exempt under MEPA, there has not been any environmental damage. After July, 1 1987 there was an influx of drilling activity and development in the state based on that legislative exemption. The rig count picked up considerably. The rig count has fallen off lately more in

31

Montana than in other states but that corresponds with the audit by the Department of Revenue of all of the gas producers in the state. The industry owed the department a million dollars in taxes, interest, and penalties. Senator Keating hoped the committee would vote for a two-year extension.

Senator Keating noted that there is a significant difference between "shall" and "may". With committee approval, Senator Yellowtail's amendment was segregated and vote taken on the amendment.

Senator Eck wondered if Montana would have to have MPEA review at all.

Senator Keating answered if an attempt was going to be made it would have by this time. The members of the industry are not trying to rescind the programmatic. The board needs a reasonable amount of time to adopt it.

Senator Weeding thought eight months for the statutory deadline was enough. In the last session it was deemed adequate and now it's going to take two more years. Most of the work has been done.

Senator Yellowtail understood the printing of the draft was scheduled soon. Senator Keating remarked about having public hearings around the state. He wondered if the board had them set up for the next 60 days or not.

Senator Yellowtail stated that a formal 60-day period was to begin on January 31 and end on March 31. The technical staff could then prepare the final EIS and make the final recommendation by June 1. June 1 would start another 15-day comment period. Fifteen days could be allotted for reaction and comments; final hearing could be scheduled on June 29th.

Senator Keating said the Board of Oil and Gas Conservation understood the programmatic would be coming from the governor in a timely manner. The schedules for the hearings will take time.

Senator Yellowtail wondered who would hold the hearings.

Kevin Hart, a Department of Natural Resources and Conservation employee who coordinated the programmatic, stated the Board of Oil and Gas had scheduled the following meetings: Billings, February 22; Sidney, March 1; and Great Falls, March 8; in the evening.

Senator Jenkins asked how long it would take to review the programmatic.

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Kevin Hart stated compiling the programmatic was a monumental task. Montana is the only state except New York to write a programmatic. New ground is being broken with this effort. A policy decision was made to incorporate as much of the work as possible by existing agency staff and to assist the board with information available at the various state agencies. The EIS programmatic will be mailed to 500 or more people tomorrow and will be the official start of the comment period. The first hearing will be held in three weeks and the interested parties have an opportunity to attend the public hearings and present their comments. Written comments should be received by March 31st.

Senator Jenkins wondered if it would be better not to rush and give the council more time.

Kevin Hart stated the existing schedule would be tight but not impossible. The council will look for comments on the checklist.

Senator Tveit commented that we are the only state except New York that has this programmatic so there is nothing to use as a comparison.

Senator Tveit also commented that the board will have four new members shortly and they are behind in their workload. Senator Tveit felt there is much in the programmatic that was done by an agency who knows nothing about the oil development and environmental issues. It will be difficult for the board to decipher the information in that big document. The industry people have improved what they are doing in the past 15 years. The sponsor has made a concession on "may" or "shall" (in page 4, line 11 of the bill).

Senator Keating stated that MEPA controls the action of government as applied to private property. Two-thirds of the land in the state is private property owned by farmers, ranchers and individuals who have contracted in good faith with producers who want to risk investment money to look for oil and gas. There are already environmental rules and procedures that have been established from various departments of the government. The programmatic now goes out to the public for hearings and the public impacted by the programmatic will have to absorb it in 60 days with a couple of public hearings scattered around the state. They have not scheduled hearings along the hi line.

Senator Keating said the public will have to digest this because they are the ones being impacted. If the impact is too stringent, there will not be any oil and gas leasing in

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the state. Under current law there isn't a courtesy of extension here for those impacted to review the programmatic.

Senator Van Valkenburg stated that Senator Yellowtail has offered the courtesy of an extension and the amendment proposed a 90-day extension. The debate may be if 90 days is enough and whether 2 years is too much but it is not fair to Senator Yellowtail because his amendment provides for an extension.

Senator Keating said the amendment shortens the extension. The important part is whether to get the law changed from June 30, 1989 or not.

Senator Van Valkenburg stated that one way to get a reasonable extension would be by accepting the offer of changing "may" to "shall". Montanans can all work together, democrats and republicans, environmentalists and oil people.

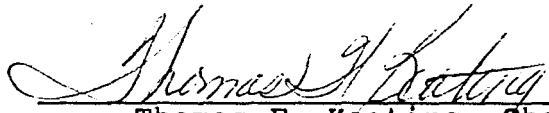
Senator Keating suggested a vote be taken on the segregation of the amendment. Sections 3 and 5 of the amendment would be segregated from 1, 2, 4 and 6.

The vote on sections 1, 2, 4, and 6 was four affirmative and seven negative. (Exhibit 2)

The vote on sections 3 and 5 was seven affirmative and four negative. (Exhibit 3)

The vote on the bill as amended. (Exhibit 4)
That closes the executive action.

Adjournment At: 1:30 p.m.


Thomas F. Keating, Chairman

TFK/hmc

senmin.130

ROLL CALL

NATURAL RESOURCES

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 1-30-89

NAME	PRESENT	ABSENT	EXCUSED
Chairman Tom Keating	✓		
Vice-Chairman Larry Tveit	✓	###	
Senator Fred VanValkenburg	✓		
Senator Loren Jenkins	✓		
Senator Darryl Meyer	✓		
Senator Lawrence Stimatz		✓	
Senator Pete Story	✓		
Senator Bill Yellowtail	✓		
Senator Elmer Severson	✓		
Senator Cecil Weeding	✓		
Senator Dorothy Eck	✓		
Senator Jerry Noble	✓		

Each day attach to minutes.

Amendments to Senate Bill No. 201
First Reading Copy

Requested by Senator Bill Yellowtail
For the Senate Committee on Natural Resources
January 30, 1989

1. Title, line 4.
Strike: "JUNE"
Insert: "September"
2. Title, line 5.
Strike: "1991"
Insert: "1989"
3. Title, lines 8 and 9.
Strike: "REMOVING THE REQUIREMENT THAT THE BOARD MUST ADOPT A PROGRAMMATIC ENVIRONMENTAL STATEMENT;"
4. Page 4, line 8.
Following: "than"
Strike: "June"
Insert: "September"
Following: "1989"
Strike: "1991"
Insert: "1989"
5. Page 4, line 11.
Strike: "may"
Insert: "shall"
6. Page 4, line 12.
Following: "by"
Strike: "June"
Insert: "September"
Following: "1989"
Strike: "1991"
Insert: "1989"

ROLL CALL VOTE

EXHIBIT NO. 2
DATE 1-30-89
BILL NO. 201

SENATE COMMITTEE NATURAL RESOURCES

Amend 1, 2, 4, 6,

Date 1-30-89 Bill No. 201 Time _____

NAME	YES	NO
Vice-Chairman Larry Tveit		✓
Senator Fred VanValkenburg	✓	
Senator Loren Jenkins		✓
Senator Darryl Meyer		✓
Senator Lawrence Stimatz		
Senator Pete Story		✓
Senator Bill Yellowtail	✓	
Senator Elmer Severson		✓
Senator Cecil Weeding	✓	
Senator Dorothy Eck	✓	
Senator Jerry Noble		✓
Chairman Tom Keating		✓
	4	7

Secretary _____

Chairman _____

Motion: Yellowtail amendment - fail
#1, 2, 4 & 6

EXHIBIT NO. 3ROLL CALL VOTEDATE 1-30-89BILL NO. 201

NATURAL RESOURCES

SENATE COMMITTEE _____

Amend 3 + 5

Date 1-30-89 Bill No. 201 Time _____

NAME	YES	NO
Vice-Chairman Larry Tveit		✓
Senator Fred VanValkenburg	✓	
Senator Loren Jenkins	✓	
Senator Darryl Meyer		✓
Senator Lawrence Stimatz		
Senator Pete Story	✓	
Senator Bill Yellowtail	✓	
Senator Elmer Severson		✓
Senator Cecil Weeding	✓	
Senator Dorothy Eck	✓	
Senator Jerry Noble		✓
Chairman Tom Keating	✓	
	7	4

Secretary _____

Chairman _____

Motion: Yellowtail amendment #3,5 - pass

ROLL CALL VOTE

EXHIBIT NO. 4
 DATE 1-30-89
 BILL NO. 201
Bill as amended

SENATE COMMITTEE NATURAL RESOURCES

Date 1-30-89 Bill No. 201 Time _____

NAME	YES	NO
Vice-Chairman Larry Tveit	✓	
Senator Fred VanValkenburg		✓
Senator Loren Jenkins	✓	
Senator Darryl Meyer	✓	
Senator Lawrence Stimatz		
Senator Pete Story	✓	
Senator Bill Yellowtail		✓
Senator Elmer Severson	✓	
Senator Cecil Weeding		✓
Senator Dorothy Eck		✓
Senator Jerry Noble	✓	
Chairman Tom Keating	✓	
	7	4

Secretary _____

Chairman _____

Motion: pass as amended - pass

SENATE COMMITTEE OF THE WHOLE AMENDMENT

February 2, 1989 2:46 pm

Mr. President: I move to amend SB 201 (second reading copy -- yellow) as follows:

1. Title, line 8.
Following: "THAN"
Strike: "JUNE"
Insert: "SEPTEMBER"
Following: "30,"
Strike: "1991"
Insert: "1989"

2. Title, line 12.
Following: "UNTIL"
Strike: "JUNE"
Insert: "SEPTEMBER"
Following: "30,"
Strike: "1991"
Insert: "1989"

3. Page 4, line 13.
Following: "THAN"
Strike: "June"
Insert: "September"

4. Page 4, line 14
Following: "~~1989~~"
Strike: "1991"
Insert: "1989"

5. Page 4, line 18.
Following: "by"
Strike: "June"
Insert: "September"
Following: "~~1989~~"
Strike: "1991"
Insert: "1989"

ADOPT

REJECT

Signed: _____

Yellowtail

Senator Yellowtail

SECRETARY-CLAUDIA MONTAGNE

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
SB0003	2/21	3/03		CONCUR		3/04
MAZUREK, JOE			REVISE REPORTING REQUIREMENTS AND PAYMENT OF TAXES FOR METAL MINES AND RITT			
SB0008	2/21	3/01		CONCUR		3/02
ECK, DOROTHY			EXEMPT TRIBAL ROYALTIES RECEIVED UNDER 1938 LEASES FROM STATE TAXATION			
SB0029	2/21	3/03		CONCUR		3/04
GAGE, DELWYN			PROVIDE RULEMAKING AUTHORITY TO BOARD OF OIL AND GAS FOR SEISMIC SHOT HOLES			
SB0091	2/21	3/01		CONCUR AS AMENDED		3/13
MANNING, DICK			PROVIDE FOR SALE OF CABIN SITES OR LOTS LEASED BY STATE TO LESSEES			
SB0154	2/21	3/01		CONCUR		3/02
NATHE, DENNIS			CONFIDENTIALITY OF CERTAIN STATE LANDS LEASE INFORMATION			
SB0161	2/21	3/01		CONCUR AS AMENDED		3/02
HARP, JOHN			ADJUSTMENT OF TIMBER PURCHASER'S NONPERFORMANCE BOND TO ACTUAL COST			
SB0166	2/21				JUDICIARY	
BENGTON, ESTHER			PROVIDES FOR ADMINISTRATION OF TEMPORARY PRELIMINARY AND PRELIMINARY DECREES			
SB0183	2/21	3/06		CONCUR		3/07
ABRAMS, HUBERT			INCLUDES LITTLE MISSOURI RIVER BASIN IN THE WATER RESERVATION PROCESS			
SB0201	2/21	3/10		CONCUR AS AMENDED		3/13
KEATING, TOM			EXTENDING THE BOARD OF OIL AND GAS CONSERVATION'S EXEMPTION FROM MEPA			
SB0223	2/21	3/03		TABLED		
KEATING, TOM			REDEFINING THE MAJOR FACILITY SITING ACT DEFINITION OF UTILITY			
SB0227	2/21	3/06		CONCUR		3/07
HIMSL, MATT			REVISING COMPOSITION OF THE FLATHEAD BASIN COMMISSION			

SENATE BILL NO. 201

INTRODUCED BY KEATING, GILBERT, TVEIT, SMITH, REHBERG,
HARP, ELLISON, IVERSON, RAMIREZ, COBB, GALT, BOYLAN,
GUTHRIE, WALKER

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXTEND UNTIL THE BOARD OF OIL AND GAS CONSERVATION ADOPTS A PROGRAMMATIC ENVIRONMENTAL STATEMENT, BUT NO LATER THAN JUNE 30, 1991, THE EXEMPTION OF THE BOARD OF OIL AND GAS CONSERVATION FROM THE REQUIREMENTS OF THE MONTANA ENVIRONMENTAL POLICY ACT WHEN ISSUING DRILLING PERMITS; ~~REMOVING-THE-REQUIREMENT-THAT~~ EXTENDING UNTIL JUNE 30, 1991, THE DATE BY WHICH THE BOARD MUST ADOPT A PROGRAMMATIC ENVIRONMENTAL STATEMENT; AND AMENDING SECTION 75-1-201, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-1-201, MCA, is amended to read:

"75-1-201. General directions -- environmental impact statements. (1) The legislature authorizes and directs that, to the fullest extent possible:

(a) the policies, regulations, and laws of the state shall be interpreted and administered in accordance with the policies set forth in parts 1 through 3;

(b) all agencies of the state, except as provided in subsection (2), shall:

(i) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(ii) identify and develop methods and procedures which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(iii) include in every recommendation or report on proposals for projects, programs, legislation, and other major actions of state government significantly affecting the quality of the human environment, a detailed statement on:

(A) the environmental impact of the proposed action;

(B) any adverse environmental effects which cannot be avoided should the proposal be implemented;

(C) alternatives to the proposed action;

(D) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

(E) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;

(iv) study, develop, and describe appropriate alternatives to recommend courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(v) recognize the national and long-range character of environmental problems and, where consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize national cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(vi) make available to counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(vii) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(viii) assist the environmental quality council established by 5-16-101; and

(c) prior to making any detailed statement as provided in subsection (1)(b)(iii), the responsible state official shall consult with and obtain the comments of any state agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate

state, federal, and local agencies which are authorized to develop and enforce environmental standards shall be made available to the governor, the environmental quality council, and the public and shall accompany the proposal through the existing agency review processes.

(2) The department of public service regulation, in the exercise of its regulatory authority over rates and charges of railroads, motor carriers, and public utilities, is exempt from the provisions of parts 1 through 3.

(3) (a) ~~Until the board of oil and gas conservation adopts a programmatic environmental statement, but no later than~~ THE BOARD OF OIL AND GAS CONSERVATION ADOPTS A PROGRAMMATIC ENVIRONMENTAL STATEMENT, BUT NO LATER THAN June 30, ~~1989~~ 1991, the issuance of a permit to drill a well for oil or gas is not a major action of state government as that term is used in subsection (1)(b)(iii).

(b) The board of oil and gas conservation ~~shall~~ may SHALL adopt a programmatic statement by June 30, ~~1989~~ 1991, that must include but not be limited to:

(i) such environmental impacts as may be found to be associated with the drilling for and production of oil and gas in the major producing basins and ecosystems in Montana;

(ii) such methods of accomplishing drilling and production of oil and gas as may be found to be necessary to avoid permanent impairment of the environment or to mitigate

1 long-term impacts so that the environment and renewable
2 resources of the ecosystem may be returned to either
3 conditions similar to those existing before drilling or
4 production occurs or conditions that reflect a natural
5 progression of environmental change;

6 (iii) the process that will be employed by the board of
7 oil and gas conservation to evaluate such environmental
8 impacts of individual drilling proposals as may be found to
9 exist;

10 (iv) an appropriate method for incorporating such
11 environmental review as may be found to be necessary into
12 the board's rules and drill permitting process and for
13 accomplishing the review in an expedient manner;

14 (v) the maximum time periods that will be required to
15 complete the drill permitting process, including any
16 environmental review; and

17 (vi) a record of information and analysis for the board
18 of oil and gas conservation to rely upon in responding to
19 public and private concerns about drilling and production.

20 (c) The governor shall direct and have management
21 responsibility for the preparation of the programmatic
22 statement, including responsibility on behalf of the board
23 of oil and gas conservation for the disbursement and
24 expenditure of funds necessary to complete the statement.
25 The facilities and personnel of appropriate state agencies

1 must be used to the extent the governor deems necessary to
2 complete the statement. The governor shall forward the
3 completed draft programmatic statement to the board of oil
4 and gas conservation for hearing pursuant to the provisions
5 of the Montana Administrative Procedure Act, Title 2,
6 chapter 4. Following completion of a final programmatic
7 statement, the governor shall forward the statement to the
8 board for adoption and use in the issuance of permits to
9 drill for oil and gas."

-End-

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MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairperson Bob Raney, on March 10, 1989, at
3:30 p.m.

ROLL CALL

Members Present: All members present except:

Members Excused: Rep. Kadas

Members Absent: None

Staff Present: Claudia Montagne, Secretary; Hugh Zackheim,
Staff Researcher, Environmental Quality Council

Announcements/Discussion: None

HEARING ON SB 390

Presentation and Opening Statement by Sponsor:

SEN. JACK GALT, Senate District 16, said the bill was a simple one to extend the authority given two years ago by the legislature to Deadman's Basin Water Users Association to pump over 3,000 acre feet of water out of the mines in Roundup for irrigation purposes. He stated that it was a test pumping project.

Testifying Proponents and Who They Represent:

Rep. Bob Clark, House District 31
Karen Barclay, Department of Natural Resources and
Conservation

Proponent Testimony:

REP. BOB CLARK, whose district includes Roundup, stated that this bill was an extension of SB 151 of the last session. He said that the opponents' fear was that water in the Bull Mountains would be depleted as a result of this pumping. He reminded the committee that this was a test. If the mine pumping was found to be cost effective, it would provide 13,000 acre feet per year in the long run. Only if the testing determined that the water was available with no deterrent effects on water supply, would the project continue.

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HEARING ON SB 201

Presentation and Opening Statement by Sponsor:

SEN. TOM KEATING, Senate District 44, opened on the bill which was a follow up measure enacted two years ago requiring the preparation and adoption of an programmatic environmental impact statement (EIS) dealing with oil and gas permitting. He said that during that time, the permitting for oil and gas was exempt under the Montana Environmental Policy Act. He said this exemption was to last until the completion of the programmatic EIS. He said that the programmatic was not printed until February of 1989, and was now being heard in public meetings. He said that SB 201 asked for a two year extension to give the Board of Oil and Gas Commission time to review the document, and to give the Governor the opportunity for additions or corrections before final presentation to the board. He mentioned that the Board of Oil and Gas Commission had four new members who needed to gain familiarity with the document.

Testifying Proponents and Who They Represent:

Jim Nelson, Chairman, Board of Oil and Gas Conservation
Dave Darby, Department of Natural Resources and Conservation
Joe Keating, General Manager, Cenex
John Moore, Attorney, Cut Bank, Independent Operators and
Oil Drillers
Doug Abelin, Montana Oil and Gas Association
Patrick Montalban, MSR Exploration Limited
Janelle Fallan, Montana Petroleum Association
Dan Mitchell, Cut Bank

Proponent Testimony:

JIM NELSON testified that they needed the time to consider the programmatic EIS that was submitted to the board in the end of January. He said it was a comprehensive document covering all phases of oil and gas production which would have long lasting impacts on the industry. He said to ask the board to complete the review by June 30 deadline would ensure an inadequate job of incorporating public comments, writing any redrafts, drafting of an implementation schedule and considering any rule changes. He said they needed at least one year, or as much time as the legislature was willing to give them

DAVE DARBY, Deputy Director, DNRC, testified as a member of the Governor-appointed Oil and Gas Drilling Advisory Council that offered guidance and direction in the preparation of the EIS. He said it was his belief that one could meet the technical requirements of the law by the deadline date. However, in light of the new board, and the steps necessary

to get them up to speed in order for them to make a reasoned decision, he said a time frame of six months to a year was reasonable to consider.

JOE KEATING, General Manager of Exploration and Production, and a member of the Governor's appointed Advisory Council to assist in the development of the programmatic, said it would be a mistake to force the board into a hasty adoption, and that if some value was to be derived from this EIS, they should be given the time to do the job properly.

JOHN MOORE, attorney, said Cut Bank was reeling from the impact of the previous administration's onslaught from the Department of Revenue, the State Land Board, and the EPA. He said drilling had been tied up, and there were no new wells being drilled. He said this was a chance to do something for the industry. He said they needed time within the industry to evaluate and develop proper programmatic control. He said they needed an informal advisory panel of actual small operators for the governor to get the input. He said they were not trying to avoid responsibility for industry's mistakes, but that the board needed at least two years to effectively complete the programmatic EIS process. (EXHIBIT 24).

DOUG ABELIN testified that he had helped develop the idea of the programmatic. He said it was complex, as was the industry, and that with four new board members, the benefit of additional time was needed to enable them to make the best document they could.

PATRICK MONTALBAN said MSR operated 200 -250 wells in the Sweet Grass Arch. He said that if Montana went to this new program, things would change drastically for the small stripper wells and the development wells. He suggested that the study was ridiculous and represented an overkill. He mentioned in particular the dust pollution created by the transfer of materials from the drill site to town, and the diesel motors operating the pumps. More important, he said, was the fact that with this program, the industry would not be able to develop these wells quickly. He also expressed concern about the cost of the plan when it was implemented. He suggested that the attitude in the state of Montana had to change. He said that the new board members needed one to two years to go through the programmatic EIS.

JANELLE FALLAN said that the draft EIS was an excellent and informative document in many ways. She raised questions as to whether it fulfilled all of the requirements of SB 184. She reiterated that more time was needed because of the new membership on the board. She suggested that time was needed just in completing the work needed for the preparation of the final EIS, and in figuring out how the Oil and Gas Board would live in an essentially different world.

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DAN MITCHELL said he had 46 years of experience in the oil and gas industry in Montana. He said to his knowledge, there had never been problems with the rules regulating the industry, and said he knew of no examples where there had been environmental damage to the surface from drilling an oil and gas well. He said the industry rules and regulations might need a few changes, but did not need the changes suggested in the draft EIS. He said the Board of Oil and Gas Commission needed more time to review the document.

Testifying Opponents and Who They Represent:

Jim Jensen, Montana Environmental Information Center
Mary Ann Kelly, Bridger Watch
Janet Ellis, Montana Audubon Legislative Fund
Stan Bradshaw, Montana Council, Trout Unlimited
Kim Wilson, Montana Chapter of the Sierra Club
Brant Quick, Northern Plains Resource Council

Additional Proponent Testimony:

Gary McCabe, Attorney, Great Falls (EXHIBIT 30)

Opponent Testimony:

JIM JENSEN gave a slide show to illustrate what was actually going on in the oil fields and why MEIC believed that the industry was not benign, not clean, not managed, but was in fact indifferent, callous and polluting in Montana. He said the programmatic EIS needed to be implemented on a timely basis. He suggested that what the committee had heard regarding the need for more time was in fact a smokescreen by the industry to avoid compliance with the recommendations of the programmatic. The slides consisted of views of oil spills and unlined sludge pits, current pumps leaking oil, abandoned operations, and the impacts on the ecosystem.

MR. JENSEN said the purpose of MEPA was to incorporate a planning strategy from the beginning wherever the earth was disturbed for the recovery of natural resources. He said that this ounce of prevention was worth more than a million dollars worth of cure. He quoted Sen. Keating's statement that the oil and gas industry had not done any damage, had cleaned up its mess when it was done, and therefore deserved a time extension. MR. JENSEN said the truth was that the industry had received or would receive \$1,630,352 from the RIT fund, an amount which represented a fair amount of damage. He urged the committee to kill the bill and to keep the pressure on the industry.

HOUSE COMMITTEE ON NATURAL RESOURCES

March 10, 1989

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MARY ANN KELLY testified against the bill as set forth in EXHIBIT 25. She also distributed a report on the Lodgepole Blowout, produced by the Alberta Energy Resources Conservation Board (EXHIBIT 26). She showed slides of this blowout.

JANET ELLIS distributed a copy of the schedule that would have to be followed in order for the programmatic EIS to be adopted by the Board of Natural Resources within the original time frame. She suggested that although the schedule was tight, it was possible to meet. She submitted amendments to allow a two month extension for the Board of Oil and Gas. She said this extension was thought to be reasonable because there were misunderstandings regarding the MEPA requirements. She said the adoption of a checklist would enable the Oil and Gas Commission to technically comply with MEPA. She said no rule changes would need to be adopted for compliance. Included in her exhibit was a sample checklist and a list of sensitive environmental features to be considered in oil and gas development (EXHIBIT 27).

MS ELLIS quoted Jim Nelson from the Senate hearing as saying an extension of time was needed to adopt the programmatic; they were running at least a month behind. MS ELLIS questioned the need for a two year extension if they were running a month behind. Upon being asked by one of the senators how much time would be needed to comply and adopt the programmatic, Mr. Nelson had replied that the board would use whatever time the Legislature would allow. MS ELLIS urged the committee to amend the bill.

STAN BRADSHAW testified against the bill.

KIM WILSON submitted testimony as contained in EXHIBIT 28.

BRANT QUICK stood in opposition to the bill and submitted testimony on behalf of Connie Wilson, landowner representative on the Oil and Gas Advisory Council, in opposition to the bill. Her testimony was on behalf on the Northeast Land and Mineral Owners Association (EXHIBIT 29).

Additional Opponent Testimony:

Butch Turk, Missoula (EXHIBIT 31)

Questions From Committee Members:

REP. ROTH asked Ms Kelly about the subject of the slide show, when the blowout occurred, and what percentage of active wells had a blowout like that. MS KELLY said it had occurred in 1982, and that such blowouts were rare. REP. ROTH asked if she knew of any similar blowouts that had occurred in Montana. MS KELLY said one had happened in Fairview in October of 1988. She said wells in that

geologic structure (the overthrust) and at that depth presented the chance for potential blowout.

REP. BROOKE drew a parallel with the situation with which the Legislature was faced, that of meeting a deadline in response to a Supreme Court ruling with 33% new membership. She asked Mr. Nelson if this was not a comparable situation, and asked for a response. MR. NELSON said they was not working full time. He said they would have to call special meetings, and would need 6 months to a year to do a good job.

REP. MOORE asked about the potential for blowouts with the blowout control apparatus that she had seen the week previous on the tour. SEN. KEATING said the potential would be extremely slim due to the redundancy in the mechanical protection. He said the blowout referred to in the hearing was due to human error. He said there was no death, damage or harm from the blowout at Fairview. He said the potential for harm and permanent damage from blowouts was nil.

REP. HARPER asked if Mr. Nelson thought the majority of the board intended to adopt the programmatic EIS. MR. NELSON replied that the consequences of the board not adopting the EIS, or some form of it, were catastrophic, and that in his opinion, the board would adopt this EIS or some form of it at some point in time. REP. HARPER asked for the time frame for the noticing the rules with the Secretary of State. MR. NELSON said that Chapter 5 of the programmatic made a number of recommendations that may or may not require rule changes. He said they would like to add an implementation schedule into the EIS, and until the board considered the recommendations and the implementation of the recommendations, somewhere down the road from that perhaps some rule changes would be proposed. He agreed that adopting rule changes was necessary to adopt the EIS. He envisioned the rule making process continuing over several years.

REP. RANEY asked about the backgrounds of the four new board members. MR. NELSON said that Dave Shanen was formerly with the oil industry, Bob Rhodes was formerly with Montana Power, Stan Lund is a rancher/landowner from Reserve, and Scott Gage is a Certified Public Accountant from Cut Bank.

REP. ADDY asked Mr. Mitchell to reconcile his statement that there hadn't been any problems created by drilling in the state of Montana with the slides shown to the committee. MR. MITCHELL said he was only familiar with one of the slides. He said anyone could take a camera and take a shot down low to make it look real bad. He said the damage in the old Kevin field represented old wells drilled in the twenties.

- REP. ADDY asked Mr. Nelson why this task could not be completed before June 30, 1990. MR. NELSON said his testimony was that they needed 6 months to 1 year. REP. ADDY asked if a deadline of December 31, 1989 would provide adequate time. MR. NELSON said yes, and that they considered 6 months to be on the short side.
- REP. GILBERT asked if the protests were more against production than what was really addressed in the EIS, the issuance of drilling permits. MR. NELSON said that there were problems with the concept of the EIS itself and the necessity for it. He said the industry comments at the public hearings indicated that there was no need for this programmatic EIS, that it would complicate their lives and their business to the point of not being able to function in the future. He said landowner comments had indicated that there were things that had not been considered such as the adoption of rules on salt water collection.
- REP. GILBERT asked if it was correct that the industry did feel that the time had come for regulation, and that this was the least onerous method at this point. He said it would give industry some control, at the same time allowing permits to be more easily obtained on ground already drilled up. MR. NELSON said the Legislature passed SB 184, and the Board would comply with the letter and the spirit of that law. He said that fortunately, the board governs and regulates with a fair amount of common sense, and appreciated the importance of the oil and gas industry to the state. He said some form of an EIS would be adopted in such a fashion that it made sense, did not cripple the industry, and accomplished the legislative mandate. REP. GILBERT suggested that quality was better than quantity, and asked if some extension of time would be preferable. MR. NELSON said another six months to a year would be time well spent.
- REP. GILBERT commented that an additional 2 years would put us into another legislative session. He said he was prepared to offer an amendment for an extension of 1 year, prior to the convening of the next legislative session. Part of the amendment would include the requirement that the board start a plan immediately, with a bi-monthly progress report to the Environmental Quality Council. MR. NELSON said the board appreciated the task before them, and that the year would be used constructively. He said the board would be happy to consult with the EQC.

Closing by Sponsor:

- SEN. KEATING said he stood behind his comments that the industry cleaned up as they completed drillings. He reminded the committee that this was for the permitting process for new wells. He also stated that the oil and gas industry had contributed \$45 million to the RIT fund, and that less than

half of the \$1 million mentioned by Mr. Jensen had ever been used for actual surface or environmental reclamation. He reiterated that the Board of Oil and Gas Commission was not a full time board, and encouraged the committee to allow them the full two years for the review process of the EIS.

DISPOSITION OF SB 201

Motion: REP. GIACOMETTO moved the bill DO PASS.

Discussion: None

Amendments, Discussion, and Votes: REP. GIACOMETTO moved Rep. Gilbert's amendment, and asked Mr. Zackheim to read it. The amendment read that the extension would be 1 year from the current law, making the date of adoption no later than June 30, 1990. Additionally, the amendment would require written progress reports after each meeting of the Board of Oil and Gas, and after any special meetings that addressed implementation of the programmatic. These reports would be sent to the EQC.

REP. COHEN called for a segregation of the amendments: 1) the date of adoption of the programmatic, and 2) the requirement of written reports. He commented that the extension was too lengthy, and suggested August 31, 1989, which was six months from the day's date.

REP. RANEY segregated the amendments, and the question was called on the amendment covering the reporting requirements. The motion CARRIED unanimously.

REP. COHEN spoke on the Gilbert amendment regarding the time period, and indicated that it provided more time than necessary. REP. ROTH commented that the Cohen amendment did not provide enough time.

Substitute Motion: REP. HARPER offered a compromise amendment, which set the date for adoption at September 30, 1989. REP. GIACOMETTO opposed the substitute motion, stating that rushing through the task would not benefit anyone. REP. ADDY said a year was a compromise. He said if the committee sent it out with a shorter date than that, there would be a floor fight. REP. COHEN said his concern was that as long as the programmatic was not adopted, there was no regulation at all in place. REP. OWENS commented that a year was requested in good faith by the sponsor and the department. REP. RANEY said that Mr. Nelson had said that 6 months was adequate.

Substitute motion for all motions pending: REP. BROOKE moved that the date for adoption be December 31, 1989. REP.

GIACOMETTO opposed the amendment. The motion CARRIED on a roll call vote, 11-5.

Recommendation and Vote: REP. HARPER moved the bill BE CONCURRED IN AS AMENDED. The motion CARRIED with Rep. Clark, Rep. Cohen, and Rep. Giacometto voting no.

HEARING ON HB 757

Presentation and Opening Statement by Sponsor:

REP. GIACOMETTO opened on HB 757, Montana's Agricultural Groundwater Protection Act, and turned the hearing over to the proponents.

Testifying Proponents and Who They Represent:

Pam Langley, Montana Agricultural Business Association
Valerie Larson, Montana Farm Bureau
Ron DeYong, Montana Farmers Union and the Montana Water Resources Association
Peggy Haaglund, Montana Association of Conservation Districts
Larry Johnson, Montana Grain Growers Association
LeRoy Luft, Montana State University, Extension Service
Carol Mosher, Montana Stockgrowers Association, Montana Cattlewomen
Gary Gingery, Montana Department of Agriculture
Steve Pilcher, Montana Department of Health and Environmental Sciences

Proponent Testimony:

PAM LANGLEY, Executive Director of MABA, said her organization was made up of a group of rural businesses, primarily chemical fertilizer dealers, and had been a very environmentally minded association for some time. She testified for HB 757, which had been nearly a year in the making. She said HB 757 had its basis not only in the experiences of other states, but also in the EPA document, "Agricultural Chemicals in Groundwater, Proposed Pesticide Strategy", December, 1987. She continued her testimony as outlined in EXHIBIT 32.

VALERIE LARSON testified that the bill was needed to protect the groundwater. She said it addressed monitoring, proper use of agricultural chemicals, ground water standards, and ground water management plans. She said her organization liked the dual administrative authority between the Department of Health and Environmental Sciences (DHES) and the Department of Agriculture (DOA). She said the bill provided penalties for violators, and protections for those who followed the rules and directions in the groundwater

DAILY ROLL CALL

HOUSE NATURAL RESOURCES

COMMITTEE

50th LEGISLATIVE SESSION -- 1989

Date 3-10-89

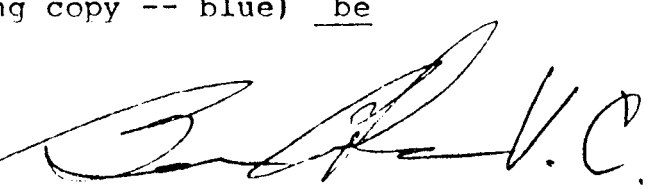
NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Raney, Chairman	✓		
Rep. Ben Cohen, Vice-Chairman	✓		
Rep. Kelly Addv			✓
Rep. Vivian Brooke	✓		
Rep. Hal Harper	✓		
Rep. Mike Kadas	✓		
Rep. Mary McDonough	✓		
Rep. Janet Moore	✓		
Rep. Mark O'Keefe	✓		
Rep. Robert Clark	✓		
Rep. Leo Giacometto	✓		
Rep. Bob Gilbert	✓		
Rep. Tom Hannah	✓		
Rep. Lum Owens	✓		
Rep. Rande Roth	✓		
Rep. Clyde Smith	✓		

STANDING COMMITTEE REPORT

March 11, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that SENATE BILL 201 (third reading copy -- blue) be concurred in as amended .

Signed: 

Bob Raney, Chairman

[REP. HANNAH WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Title, line 8.
Strike: "JUNE 30, 1991"
Insert: "DECEMBER 31, 1989"
2. Title, line 12.
Strike: "JUNE 30, 1991"
Insert: "DECEMBER 31, 1989"
3. Page 4, lines 13 and 14.
Strike: "June" on line 13 through "1991" on line 14
Insert: "December 31, 1989"
4. Page 4, line 18.
Strike: "June" through "1991"
Insert: "December 31, 1989"
5. Page 6, line 9.
Following: "gas."
Insert: "(d) Until the programmatic environmental statement is adopted, the board of oil and gas conservation shall prepare a written progress report after each regular meeting of the board and after any special board meeting that addresses the adoption or implementation of the programmatic environmental statement. A copy of each report must be sent to the environmental quality council."

HOUSE

SB 201

RT ES

ROLL CALL VOTE

HOUSE NATURAL RESOURCES

COMMITTEE

DATE 3-10-89 BILL NO. SB 201 NUMBER 1

NAME	AYE	NAY
Rep. Hal Harper	✓	
Rep. Tom Hannah		✓
Rep. Mike Kadas	✓	
Rep. Mary McDonough	✓	
Rep. Lum Owens	✓	
Rep. Vivian Brooke	✓	
Rep. Robert Clark		✓
Rep. Mark O'Keefe	✓	
Rep. Leo Giacometto		✓
Rep. Bob Gilbert		✓
Rep. Kelly Addy	✓	
Rep. Clyde Smith	✓	
Rep. Janet Moore	✓	
Rep. Rande Roth		✓
Rep. Ben Cohen, Vice-Chairman	✓	
Rep. Bob Ranev, Chairman	✓	

TALLY

11 5

Claudia Montagne
Secretary

Bob Ranev
Chairman

MOTION: to amend the adoption deadline
to December 31, 1989.

Senate bill-201 is now more important to the future of Montana, than ever, as we have four new Oil & gas Board members, which I feel will be very fine members, but know practically nothing at all about the programmatic studies that have been prepared over the last year and a half.

I have been involved with this study since it was created and helped creat it. I see the need for the study as it has been the trend to regulate the Oil and Gas industry out of any possibility of doing things as they have been for the last 50 plus years. And in some ways I have to agree with specific changes; but the final chapter in this study has many points that have to be ironed out or the ability to explore for minerals on State and Private lands will be nearly impossible, both environmentally and monitarilly.

Mineral industries, Oil and Gas especially, have been Montanas mainstay finacially, and in the last few years it has shrunk to about half of what it was. Price of crude has made a difference, but not as much as tax issues have. Even the established companies have moved to better tax situations in other states rather than pay our tax fees and also having to fight our changing requirements to get a permit to drill.

I have been working for Oil companies for 18 years now and it was great till 1985 for me. Since then it has been a steady slide into a almost no work situation. That is why I got involved in Lobbying, to try to help keep not only my business alive, but the industry as well.

I have caught all kinds of flak over starting this study but I have been involved in the mountain front, the Kevin rim, Sweetgrass hills, Cow Creek, and the Montana Trail bike issues for years now and I feel this study was a must.

The committee that worked on this have done a super job in the first four chapters. If any of you want a reference book on the Oil and Gas industry, this is it. But the fifth chapter has to be changed, or the restictions will be the last straw to the small stripper producers. When they are so close to break even and have to try to comply to the suggestions in this chapter, they won,t be able to do it and they will stop any new developement if not total operations.

After so much time and effort, which has proven that the data and regulations are already in place, as all this study was done in house with data on record in the state departments, it would be a shame to force adoption of this study without the new board being able to study the results gathered from the three meetings just finished Wednesday night in Great Falls. And as four of the members are new it should be extended time wise so they can get their information studied and ^{new}rewrite the needed changes, allow them to be reviewed, and then the document should be stui^{ed} and what could be of a benefit be adopted, and what is not could be used for information only.

Senate bill 201 has asked for this time and I concure with this and ask you to allow this study to fulfill its purpose, which is to help

DATE

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iron out the needs both environmentally and regulatively to allow us to comply with and benefit from the data compiled in this document.

Please don't let "Fugitive Dust," referred to in this study become an expression referring to the Oil and Gas industry in this state. The Oil and Gas board are Montana people trying to help Montana people, and they should be allowed to do so to the best of their ability. So please give them that time.

Doug Abelin

Doug Abelin

Montana Oil and Gas Association.

EXHIBIT 25
DATE 3-10-89
HB SB 201

Bridger Watch

P.O. Box 4407, Bozeman, Mt. 59715

March 10, 1989

Dear Mr. Chairman and Members of the Committee,

Thank you for this opportunity to express our concerns. I represent Bridger Watch, a citizens group that has been concerned about oil and gas policies in Montana since 1984. As exploration for the oil and gas that we all use extends into overthrust-type structures, we will see wells that are much deeper (the Sohio Moats 1-3 well in Bridger Canyon near Bozeman was 15,000 ft. deep) and therefore may experience great pressure, may involve higher concentrations of "sour gas" (gas containing high quantities of H_2S) and will be closer to residential and / or traditional recreation areas. Compliance with MEPA is not unjust delay but assures proper and correct procedure in order to represent and protect the rights of all the people and environment of an area. Few wells will require a full EIS, but when such action is required, it is to the benefit of all to have factual data compiled in an impartial and comprehensive manner. Bridger Watch is well aware that the function of an EIS is not to stop a well, but rather to review all conditions specific to a well and the workable options for procedure.

I want to tell you now why we are so concerned with the possible impacts of oil and gas drilling. In Alberta, Canada, the infamous Lodgepole 13-12 well made us realize that a serious accident could pose a great danger to our families and property. The Lodgepole 13-12 well raised the issue of deadly H_2S gas and its effects on humans and livestock. This was a well drilled by a reputable company, with a good safety record, in a known field. None the less that well blew out of control for 67 days. The H_2S plume did not follow the "graph predictions" and was smelled 800 miles away in Winnipeg, Manitoba. The following slides will show you what happened.

Oil and gas drilling and production raises concerns regarding: protection of ground and surface water, air quality control, fire protection, noise levels, traffic and road conditions, weed control, soil protection, livestock and wildlife protection and aesthetic values, in addition to the health and safety plans and evacuation plans for nearby residents. The total weight of all possible impacts from drilling of only one well must be taken seriously. Please retain the protection of MEPA for all of Montana and its people. Thank you.

Sincerely,

Mary Ann Kelly

ACTIONS

GENERAL

The Panel has submitted 39 recommendations that involve industry, the ERCB, government departments and, to a lesser degree, the public. They are wide-ranging in their scope. The Panel invites readers to obtain a copy of the Summary Report and review them. Two of the more important areas are commented on below.

REDUCE BLOWOUTS

While blowouts can't be totally eliminated, they can be significantly reduced. The Panel has recommended that

- new strict rules apply to drilling critical sour wells, to ensure careful planning, superior equipment and well trained crews
- the design, capacity and operating problems of key components of drilling rigs be carefully examined to determine whether changes are necessary
- drilling operations in the critical zone be conducted in a cautious manner
- ERCB increase both the number and completeness of its inspections of drilling operations
- the training of drilling personnel be improved

Each of these recommendations has been implemented or is under active consideration.

REDUCE EFFECTS OF A BLOWOUT

If a blowout were to occur the Panel believes that its effect can be reduced by

- requiring a site-specific emergency response plan for critical sour wells
- ensuring effective coordination of government response to the blowout
- ensuring effective communication with the public and particularly with the people residing in the immediate area
- ensuring that H₂S exposure limits are appropriate - especially for sensitive people
- ensuring that H₂S concentrations are carefully monitored and the information made available to the public

Most of these recommendations have been at least partially implemented.

WANT MORE INFORMATION?

If you are interested in learning more about the Lodgepole Blowout, the ERCB has three documents available:

- 1 Summary of Recommendations
- 2 Phase 1 report (a detailed analysis of the event and its effects, which includes the Phase 2 report)
- 3 Addendum to Phase 1 report, which deals with the updated estimates of emissions from the 13-12 well

Write, or drop by, any of the ERCB offices listed below:

Energy Resources
Conservation Board
Maps and Publications Desk
640 Fifth Avenue S.W.
Calgary, Alberta
T2P 3G4
Phone: 297-8328

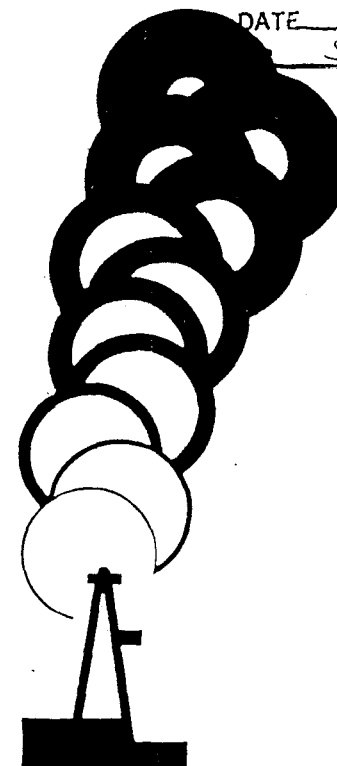
or

Energy Resources
Conservation Board
Postal Station "D"
12204 - 145 Street
Edmonton, Alberta
T5L 4J6
Phone: 427-0200



A scene in a lifetime photo of a small tornado caused by the vacuum developed from the fire and tremendous pressure resulting from the Lodgepole well

WORTH
RE-READING!



ERCB

LODGEPOLE Blowout Report

CAUSES,
EFFECTS,
ACTIONS.

EXHIBIT 26
DATE 3-10-89
SB 201

DATE 26
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Ex #26
3-10-89

CAUSES

WHAT HAPPENED?

Amoco spudded its 13-12 well on 10 August 1982. By 15 October, coring operations were proceeding at the 3000-metre level. Two cores were recovered that day without incident. Then, while cutting the third core on 16 October, formation gas unexpectedly began entering the wellbore and a "kick" occurred! For the next 16 hours the crew fought to control it, but on 17 October the well blew totally out of control.

In spite of a great deal of expertise and money, the well was not brought under control for another 67 days. During that period the Lodgepole blowout entered oil patch history, with two wild-well fighters dead, the public very upset, and millions of dollars in equipment and hydrocarbons lost. When the well was finally brought under control, the major question remained, "what went wrong?"

WHAT WENT WRONG?

(a) The initial "kick" occurred primarily because

- drilling practices, while cutting cores 2 and 3, were deficient
- the density of the drilling mud was only marginally adequate

(b) The kick was not controlled because

- the drilling crew did not immediately recognize the problem and apply standard kick-control practices
- several pieces of vital equipment did not function properly
- supplies of mixed drilling mud were not adequate
- the gas-bearing formation was extremely prolific

WHY DID IT TAKE SO LONG TO REGAIN CONTROL?

Several factors made control operations particularly difficult

- not only was the flow rate very high, but it contained large volumes of condensate and a high percentage of hydrogen sulphide (H_2S)
- weather conditions were frequently unfavourable
- safety procedures and equipment, although meeting existing standards, proved to be inadequate

Initially, both Amoco and the ERCB considered only two well control options;



ERCB
LODGEPOLE
Blowout Report

1) capping when *not* on fire, and 2) drilling a relief well. The dangerous alternative of capping the well *while it was on fire* - which ultimately proved successful - was only adopted after the more traditional options had failed.

EFFECTS

WHAT WERE THE EFFECTS OF THE BLOWOUT?

EMISSIONS

For 67 days, very large volumes of gas, condensate and sulphur were emitted to the atmosphere. For most of those 67 days, the well was on fire and the sulphur was emitted as sulphur dioxide (SO_2), but for 26 days (when the well was not on fire) the sulphur was emitted as hydrogen sulphide (H_2S) with its offensive "rotten-egg" odor. Daily sulphur emissions from the 13-12 well were greater than the total current emissions from the more than 130 sour gas plants, 5 coal-fired thermal power plants, and two oil sands plants, operating in Alberta.

EFFECTS ON PEOPLE

Local area residents, and a group of Edmonton respiratory patients, described how the blowout had affected their health. The effects included headache, eye irritation, sore throat, nose bleeds, some breathing problems, nausea and diarrhea. While scientific data was not available to link these health problems to the blowout, the Panel is satisfied that emissions from the 13-12 well did lead to short-term health effects for a substantial number of people. The evidence also suggests that some people are especially susceptible to H_2S emissions.



The Lodgepole Blowout site, showing the large relief well casing.

Government departments reported on their efforts to ensure that people were not exposed to dangerous concentrations of either H_2S or SO_2 . Exposure limits were established and nine monitoring units were employed to identify any situation when the limit would be exceeded. That occurred only on a few occasions, at rural residences, and the occupants temporarily left the area.

Actual H_2S concentrations at residences were substantially below the H_2S exposure limit of 15 parts per million (ppm) except for the occasional episode. For example, at Cynthia and Lodgepole the recorded concentrations were less than 1 ppm for 95 and 87 per cent respectively of the total monitored hours. At Drayton Valley it was 96 per cent, and at Edmonton the concentrations were less than 0.1 ppm for 93 per cent of the monitored hours.

During the 41 days that the well was on fire, and the sulphur was being emitted as SO_2 , the concentrations were substantially less than the evacuation limit.

EFFECTS ON THE ENVIRONMENT

Environmental impacts were relatively modest. The major effects occurred on the 300 hectares (741 acres) surrounding the well. When the well was not on fire, the condensate "rain" had an impact similar to an oil spill. Two fires occurred during the several attempts to cap the well and burned all vegetation and trees in the immediate area. These fires also consumed much of the condensate, which greatly reduced the possibility of longer-term soil pollution. However, the unburned condensate, which was deposited on the perimeter of the blowout site, will have some impact on trees, groundwater, and soils for a number of years.

Sulphur emitted from the well was deposited in low concentrations on the ground over an area of hundreds of thousands of square kilometres. No evidence exists that there will be long-term harmful effects on soils, vegetation or water bodies.

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HB 503 021
J. H. H. H.

Schedule for Programmatic EIS

- Draft EIS is currently circulating for comments
 - comment period ends March 31
- Current plan: a draft of the Final EIS would be ready for review by the Board of Oil and Gas by the end of April.
- Board of Oil and Gas would meet at the beginning of May to suggest any changes in the Final EIS.
- Final EIS is sent to printer by May 15. (printing takes 2 weeks)
- Final EIS is distributed to public on June 1.
- 15 day comment period on Final EIS goes from June 1 - June 15.
- Board is(tentatively?) scheduled to meet on June 29 to adopt the Final EIS.

What is required of the Board of Oil & Gas to comply with MEPA?

They must adopt a checklist in order to comply with MEPA. It would also be appropriate for the Board of Oil & Gas to adopt an application form for the drilling permits.

Amendments to SB 201

1. Page 1, line 8.
Strike: "June 30, 1991"
Insert: "August 31, 1989"
2. Page 1, line 12.
Strike: "June 30, 1991"
Insert: "August 31, 1989"
3. Page 4, lines 13 - 14.
Strike: "June 30, 1991"
Insert: "August 31, 1989"

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TABLE 43

EXHIBIT 27
DATE 3-10-89
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EXAMPLES OF ENVIRONMENTAL REVIEW SCENARIOS

Hypothetical Drilling Proposal ¹	Environmental Features/Constraints	Likely Level of Environmental Review	Likely Time Required
Wildcat Well to Known Producing Formation — Location is near a producing well — H ₂ S present — saltwater drilling — 1/2 mile new access trail—bladed — lined reserve pit	— rangeland, flat to gently rolling — 1/2 mile to nearest surface water — no sensitive features at or near the drill site	Level I	1 or 2 days ² 55-90% ³
Rank Wildcat Well — formation characteristics uncertain — saltwater drilling anticipated — H ₂ S may be present — 1/2 mile new access road—partly cut and fill construction — lined reserve pit	— irrigated cropland — riparian vegetation — 1/4 mile to river — shallow water table — no nearby residences — 1/2 mile to developed recreation sites (campground & fishing access)	Level II	1 or 2 days ^{2,3} 9-14% ³
Rank Wildcat Well — deep target formation, characteristics uncertain — 1/2 mile new access road—partly cut and fill construction — H ₂ S likely present — fresh water drilling — lined reserve pit — road use only by the operator and contractors — road reclamation planned if well is unsuccessful	— foothills — big game winter range — municipal watershed — 1/2 mile to public land and recreation area — rural residences down-drainage — porous soils — Class I stream less than 1/4 mile away	Level II or III ⁴	10-30 days ^{2,5}
Rank Wildcat Well — H ₂ S present — extensive new access roads — fresh water drilling	— mountainous terrain — Class I stream drainage — critical wildlife habitat — grizzly bear habitat — roadless area — adjacent primitive recreation area — visually sensitive — adjacent private recreation facilities or business — glacial till soils	Level III	6 months - 1 year ⁶ 17%

Footnotes

- ¹ "Wildcat" and "Rank Wildcat" wells may require formal definitions.
- ² Assumes (a) that the Board has developed rules/guidelines specifying minimum acceptable practices for drilling and production operations; (b) that the information described in Figure 48 is readily available; (c) that the Board has established consultative relationships with other agencies; and (d) that the Board has adequately trained staff and that the workload level allows staff to begin review the same day an application for a permit to drill is received; (e) that no exceptions to the statewide spacing rule are involved.
- ³ This example assumes only telephone contact for interagency consultation.
- ⁴ Level II review could be adequate for this example if sufficient data is readily available to assess impacts, if all involved agencies are essentially in agreement about any mitigating measures that would be applied, and if sufficient data and analysis has been done to allow Board to determine that concern over impacts raised by other agencies or the public have been adequately addressed.
- ⁵ This time estimate assumes interagency agreements can be readily reached. If documentation is required or if further effort to work out disagreements is necessary, additional time will be needed to complete the review process.
- ⁶ The assumptions included in Footnote 3 would also apply to Level III review except that the data necessary to conduct the environmental evaluation will likely require more extensive effort to compile than the other levels of review.

FIGURE 49
ENVIRONMENTAL CHECKLIST FOR OIL AND GAS WELLS

PART A

Development well/short step-out
(one mile or less from existing field:)

Is this well within one mile of an existing field or producing well?

Yes ☐ No ☐

Field Name _____
(if No use part B)

Is there any aspect of the proposed operation which differs significantly from the existing operations?

Yes ☐ No ☐

If Yes, what is
the difference?

Will this difference result in impacts (or levels of impact) that would not usually be associated with the type of wells commonly drilled in the field or producing area?

Yes ☐ - use part B

No ☐ - explain:

Will successful completion of this well result in expansion of the field into areas with substantially different resources or values, or result in substantially increased impacts or impacts not associated with the existing wells?

Yes ☐ - use part B

No ☐

Complete the Summary Evaluation of Impacts Section (Part C).

EXPLORATORY OR LONG STEP-OUT WELLS
(greater than one mile from existing production)

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When completing the following section consider potential impacts that could occur as a result of drilling and possible production from the individual well.

AIR QUALITY:

OVERALL RATING:

(POSSIBLE CONCERNS)

- Long drilling time
- Unusually deep drilling (high horsepower rig)
- Possible H₂S Gas production
- In/Near Class I air quality area
- Air quality permit for flaring/venting (if productive)

MAJOR	
MODERATE	
MINOR	
NONE	

MITIGATION:

- Air quality permit (AWB Review)
- Gas plants/pipelines available for sour gas
- Special equipment/procedures requirements
- Other: _____

WATER QUALITY:

OVERALL RATING:

(POSSIBLE CONCERNS)

- Salt/oil based mud
- High water table
- Surface drainage leads to live water
- Water wells nearby
- Porous/permeable soils
- Class I stream drainage

MAJOR	
MODERATE	
MINOR	
NONE	

MITIGATION:

- Lined reserve pit
- Adequate surface casing
- Berms/dykes, re-routed drainage
- Closed mud system
- Other: _____

SOILS/VEGETATION/LAND USE:

OVERALL RATING:

(POSSIBLE CONCERNS)

STREAM CROSSINGS

- High erosion potential
- Loss of soil productivity
- Unusually large wellsite
- Loss of native vegetation/timber/crops/special status plants
- Damage to improvements
- Conflict with existing land use/values

MAJOR	
MODERATE	
MINOR	
NONE	

MITIGATION:

- Avoid improvements (topographic tolerance)
- Exception location requested
- Stockpile topsoil
- Stream crossing permit (other agency review)
- Reclaim unused part of wellsite if productive
- Special construction methods to enhance reclamation
- Other: _____

HEALTH HAZARDS/NOISE:

OVERALL RATING:

(POSSIBLE CONCERNS)

Proximity to public facilities/residences
Possibility of H₂S
Size of rig/length of drilling time

MAJOR	
MODERATE	
MINOR	
NONE	

MITIGATION:

Proper BOP equipment
Topographic sound barriers
H₂S contingency and/or evacuation plan
Special equipment/procedure requirements
Other: _____

WILDLIFE/RECREATION:

OVERALL RATING:

(POSSIBLE CONCERNS)

Proximity to sensitive wildlife areas (FWP identified)
Proximity to recreation sites
Creation of new access to wildlife habitat
Conflict with game range/refuge management

MAJOR	
MODERATE	
MINOR	
NONE	

MITIGATION:

Avoidance (topographic tolerance/exception)
Other agency review (FWP, federal agencies, DSW)
Screening/fencing of pits, drillsite
Other: _____

HISTORICAL/CULTURAL/PALEONTOLOGICAL:

OVERALL RATING:

(POSSIBLE CONCERNS)

Proximity to known sites

MAJOR	
MODERATE	
MINOR	
NONE	

MITIGATION:

Avoidance (topographic tolerance, location exception)
Other agency review (SHPO, DSL, federal agencies)
Other: _____

SOCIAL/ECONOMIC:

OVERALL RATING:

(POSSIBLE CONCERNS)

Substantial effect on tax base
Create demand for new governmental services
Population increase or relocation

MAJOR	
MODERATE	
MINOR	
NONE	

EVALUATION OF CUMMULATIVE IMPACTS

If additional wells were drilled within 2 miles of the proposed well what would be the cummulative impacts on the following:

	MAJOR	MODERATE	MINOR	UNKNOWN
AIR QUALITY				
WATER QUALITY				
SOILS/VEGETATION/LAND USE				
HEALTH HAZARDS/NOISE				
WILDLIFE/RECREATION				
CULTURAL/PALEONTOLOGICAL				
SOCIAL/ECONOMIC				

SAMPLE

Complete Part C

PART C
SUMMARY EVALUATION OF IMPACTS

Does the proposed drilling project considered as a whole:

Have impacts that are individually limited, but cumulatively considerable? (A project may result in impacts on two or more separate resources which create a significant effect when considered together or in total.)

Contribute substantially to adverse effects on an environmental resource that are occurring or anticipated due to other development, including oil and gas drilling, in the same geographic area as the proposed drilling project?

Establish a precedent or likelihood that future actions with significant environmental impacts will occur?

OVERALL SUMMARY RATING OF IMPACTS:

MAJOR	MODERATE	MINOR	NONE

The proposed project will have:

- ☐ No significant impacts; no further evaluation necessary.
- ☐ Impacts are potentially significant. Additional environmental analysis, documentation or consultation needed, as follows: _____

Prepared by: _____ (Title) _____

Date: _____

TABLE 42

SENSITIVE ENVIRONMENTAL FEATURES AND CONSTRAINTS FOR OIL AND GAS WELLS*

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GEOLOGY/SOILS

Steep slopes (30% or greater)
Unstable slopes
Produced waters—high TDS sodium chlorides

Erodible soils
Porous soils
Floodplains

WATER QUALITY

Municipal watersheds
Portable surface and ground water

High water table

AIR QUALITY

Hydrogen sulfide
Sulfur dioxide
Class I areas

Non-attainment areas
Narrow mountain valleys

WILDLIFE/FISHERIES

Critical game habitat
winter range
migration routes
birthing grounds
breeding grounds
Class I and II streams

Waterfowl Production areas
Riparian habitat
Threatened/endangered species habitat
Designated game refuges and ranges

LAND USE

Residences
Public roads
Public buildings
Cities/towns

Irrigated cropland
Designated natural areas
Roadless areas

RECREATION/AESTHETICS

Developed recreation sites
Dude ranches/resorts
Parks/monuments
Fishing access sites
Wild/scenic rivers

Wilderness/primitive areas
Established trails
Scenic overlooks/roadways

CULTURAL/HISTORIC

Native American religious sites
National register sites/landmarks
Paleontological sites
Historic sites

* Definition of sensitive environmental features and constraints may need to be developed. Use of sources from published information or available from other agencies may ease the task of determining presence or absence of these factors.



MONTANA CHAPTER SIERRA CLUB

EXHIBIT 28
DATE 3-10-89
FILE SB 201
Sen Keating

NORTH 17TH AVENUE • BOZEMAN, MONTANA 59715 • (406) 587-9782

SIERRA CLUB TESTIMONY IN OPPOSITION TO SB 201 KIM WILSON, LOBBYIST

The Sierra Club opposes Senator Keating's Senate Bill 201 for two primary reasons.

First, the testimony at the hearing in the Senate indicated there was no need for a two year extension of time to allow the Board of Oil and Gas Conservation to adopt a programmatic Environmental Impact Statement (EIS). In 1987, the Legislature granted the Board until June 30, 1989 to complete this EIS. Until the Board did so, the issuance of a permit to drill a well for oil or gas was to be exempt from the Montana Environmental Policy Act (MEPA). The Board has nearly completed its work as scheduled. While it may be that the Board needs a short extension to complete its work, two years is an unreasonably long period of time. Since that two years is clearly unnecessary, and since there is a risk of damage from well drilling operations in the interim, it is not in the state's best interest to delay the matter.

Our second reason for opposing this measure is that we see it as simply one more example of attempts this session to nickel and dime away the foundations of environmental protection in Montana. Montana's environmental laws, especially MEPA, provide necessary protection to the environment. If anything, these laws should be improved. In the case of oil and gas operations, environmental degradation can and does occur. This bill, by extending the exemption, weakens MEPA. There is no need for this bill. Please vote against SB 201.

Mr. Chairman, Members of the Committee,

My name is Connie Wilson. I am a landowner representative on the Oil and Gas Advisory Council from Bainville, and am here in opposition to SB 201.

Working with all branches of government concerned with oil and gas production, such as the Department of Natural Resources and Conservation and the Bureau of Land Management, and with industry representatives during the past year, I have come to understand the viewpoints. When I initially brought up the issue of Hydrogen Sulfide gas (H_2S) at Advisory Council meetings, it was casually dismissed as public hysteria - as a problem that rarely occurs. But, since that time the plight of a landowner couple from Culbertson, Mr. and Mrs. Baker Finnicum, has come to our attention.

The Finnicums registered many complaints of burning sinuses and chest pains with the Board of Oil and Gas, the Board's field inspector and the Air Quality Bureau. After a formal complaint was registered, a Gas/Oil Ratio Test was done on the Tiller Well near their home. However, this test was done without flaring the gas and without notifying the Finnicums, a direct violation of Oil and Gas Rule 36-22-1221.

Finally, the Finnicum's enlisted the help of then Senator Ed Smith, the Northeast Land and Mineral Owners Association (NLMOA), and myself after being subjected to the harassment.

since December of 1986. We traveled to Billings to meet with the Board in November of 1987. As a result of our meeting the Tiller Well was shut in.

However, it was turned on again in November of 1987, with serious malfunctions occurring since that time. At times the Finnicums have been made so ill by the H₂S that it has been impossible for them to go outside to feed their cattle and they can no longer permit their young granddaughter and elderly parents to visit due to incidences of profuse vomiting they have suffered during visits. These people are going to be forced from their home and family farm of 45 years.

Unfortunately, this is not an isolated case. Last September, 20 families were evacuated from their homes near Fairview when a control valve on a well ruptured. For nearly an hour the well emitted 80,000 parts per million (ppm) of H₂S into the air. At one point emissions were as high as 300,000 ppm. According to air quality standards, 10 ppm is allowable for up to 8 hours, 700 ppm will render one unconscious, and 1000 ppm will cause instantaneous death. The Fairview well emitted levels 300 times the deadly level.

As you can see, H₂S is a real problem which needs constant supervision and control. I believe that the Board of Oil and Gas, under the Chairmanship of Mr. Jim Nelson, does act responsibly when given the proper information and guidelines to

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follow. These guidelines are concisely and adequately spelled out in the checklist developed by the new MEPA EIS prepared by the Oil and Gas Advisory Council.

In discussions I have had with the NLMOA, they strongly recommended it be implemented within six months. Both the NLMOA and I believe that this is more than enough time for new board members to become familiar with the EIS and feel that a longer delay is potentially dangerous to the health and welfare of Montanans. It is perhaps true that most wells do not seriously effect the environment. But it is also true that each perspective well has the potential for serious harm, particularly when planned near towns, wilderness areas, or in zones where H2S is present.

Only twice out of the 13,000 wells drilled in Montana have MEPA regulations delayed or cancelled drilling operations. This is certainly not a red flag to industry. It is just a look at the potential damages before they occur.

I thank you for the opportunity to address this Committee. The Northeast Land and Mineral Owners Association urges you to vote against SB 201.

7

Mr. George N. McCabe
Attorney at Law
P. O. Box 2269
Great Falls, Montana 59403

NO 30
DATE 2-10-89
HB SB201

February 23, 1989

Representative Robert Raney
Chairman of the Natural
Resources Committee
THE HOUSE OF NATURAL
RESOURCES COMMITTEE
Capitol Building
Helena, MT 59601

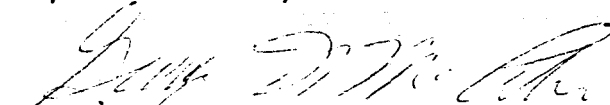
Dear Chairman Raney:

I would like to, at this time, ask for your support and that of your committee concerning Senate Bill 201, which extends the Board of Oil & Gas Conservation Commissions' exemption from the Montana Environmental Protection Act for an additional period of time. I would like to think this extra time could be devoted to making it more certain what impacts drilling has in various areas of the state. Thank you for your consideration.

Very truly yours,

JARDINE, STEPHENSON, BLEWETT & WEAVER, P.C.

By



GNM:cw

EXHIBIT 31
DATE 3-10-89
HB SB 201 / 2/25/89

Dear House Natural Resources Committee members,

I'm ^{writing} ~~to~~ to urge your opposition to ~~two~~ ^a bills coming before you.

~~The~~ ~~Bill~~, SB 201, would extend the oil and gas industry's exemption from NEPA for two more years. I understand that the industry is claiming that the first two year exemption was too short a time to complete and implement an EIS. I don't buy it. Rather, I think they're just dragging their heels.

For several years I worked in the oil fields of Montana, Wyoming and North Dakota. A phrase I heard often was, "We've got more money than we have time." Tasks often cost more than expected, but never took longer than planned. If the industry "needs more time", I believe that it's only because they chose not to expend appropriate resources. Meanwhile, they've continued to drain profits from Montana.

This industry has enormous potential to harm Montana's environment. They should be held, strictly and immediately, to the law primarily responsible for protecting our home. While working in the oil fields, I constantly saw acts, both intentional and negligent, that were harmful to the environment. I believe that pressures of time and money, the nature of the workforce, and the industry's history make environmental degradation ^{certain} without stringent governmental monitoring and enforcement. Please, let's not delay this any longer. Vote against SB201.

Sincerely, Butch Turk

514 Sherwood St., Mula, MT 59802.

VISITORS' REGISTER

Natural Resources COMMITTEE

BILL NO. SB 201DATE March 10, 1989SPONSOR Keating

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
John P. Moore	414 10th Ave. S.E. Cut Bank, MT	X	X
JOHN P. MOORE	414 10th Ave. S.E. Cut Bank, MT	X	
POOGE ABEKIN	2057 HOUSE Cut Bank, MT	X	
Patrick M. Montalban	P.O. Box 250 Cut Bank MT	X	
MARY ANN KENY	BRINGER WAY 14757 KENY COW RD. MT		X
JAMES C. Nelson	Chem - BOARD of OIL & GAS	X	
KEVIN HART	Helena Project Man		
Fugate Harley			
STEVE PALMBUSH	338 4th AVE S.E. Cut Bank MT	X	
DAN MITCHELL	410 - 7th AVE SE Cut Bank 59427	X	
Joe Keating	P.O. Box 21479 - B.Y. 59109	X	
Stan Bradshaw	Tim's Unlimited		✓
Dave Darby	Oil & Gas Drilling Advisory Council	X	
Jim Jensen	METC		X
Lanette Ellis	Audubon		X
Brant Quick	Northern Plains Resources Council		X
Kim Wiles	Sports Club		X
Jawelle Gallan	Helena	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

SENATE BILL NO. 201

INTRODUCED BY KEATING, GILBERT, TVEIT, SMITH, REHBERG,
HARP, ELLISON, IVERSON, RAMIREZ, COBB, GALT, BOYLAN,
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A BILL FOR AN ACT ENTITLED: "AN ACT TO EXTEND UNTIL THE
BOARD OF OIL AND GAS CONSERVATION ADOPTS A PROGRAMMATIC
ENVIRONMENTAL STATEMENT, BUT NO LATER THAN ~~JUNE--30,--1991~~
DECEMBER 31, 1989, THE EXEMPTION OF THE BOARD OF OIL AND GAS
CONSERVATION FROM THE REQUIREMENTS OF THE MONTANA
ENVIRONMENTAL POLICY ACT WHEN ISSUING DRILLING PERMITS;
~~REMOVING--THE-REQUIREMENT-THAT~~ EXTENDING UNTIL JUNE-30,--1991
DECEMBER 31, 1989, THE DATE BY WHICH THE BOARD MUST ADOPT A
PROGRAMMATIC ENVIRONMENTAL STATEMENT; AND AMENDING SECTION
75-1-201, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-1-201, MCA, is amended to read:

"75-1-201. General directions -- environmental impact
statements. (1) The legislature authorizes and directs that,
to the fullest extent possible:

(a) the policies, regulations, and laws of the state
shall be interpreted and administered in accordance with the
policies set forth in parts 1 through 3;

(b) all agencies of the state, except as provided in

subsection (2), shall:

(i) utilize a systematic, interdisciplinary approach
which will insure the integrated use of the natural and
social sciences and the environmental design arts in
planning and in decisionmaking which may have an impact on
man's environment;

(ii) identify and develop methods and procedures which
will insure that presently unquantified environmental
amenities and values may be given appropriate consideration
in decisionmaking along with economic and technical
considerations;

(iii) include in every recommendation or report on
proposals for projects, programs, legislation, and other
major actions of state government significantly affecting
the quality of the human environment, a detailed statement
on:

(A) the environmental impact of the proposed action;
(B) any adverse environmental effects which cannot be
avoided should the proposal be implemented;

(C) alternatives to the proposed action;

(D) the relationship between local short-term uses of
man's environment and the maintenance and enhancement of
long-term productivity; and

(E) any irreversible and irretrievable commitments of
resources which would be involved in the proposed action

1 should it be implemented;

2 (iv) study, develop, and describe appropriate
3 alternatives to recommend courses of action in any proposal
4 which involves unresolved conflicts concerning alternative
5 uses of available resources;

6 (v) recognize the national and long-range character of
7 environmental problems and, where consistent with the
8 policies of the state, lend appropriate support to
9 initiatives, resolutions, and programs designed to maximize
10 national cooperation in anticipating and preventing a
11 decline in the quality of mankind's world environment;

12 (vi) make available to counties, municipalities,
13 institutions, and individuals advice and information useful
14 in restoring, maintaining, and enhancing the quality of the
15 environment;

16 (vii) initiate and utilize ecological information in
17 the planning and development of resource-oriented projects;
18 and

19 (viii) assist the environmental quality council
20 established by 5-16-101; and

21 (c) prior to making any detailed statement as provided
22 in subsection (1)(b)(iii), the responsible state official
23 shall consult with and obtain the comments of any state
24 agency which has jurisdiction by law or special expertise
25 with respect to any environmental impact involved. Copies of

1 such statement and the comments and views of the appropriate
2 state, federal, and local agencies which are authorized to
3 develop and enforce environmental standards shall be made
4 available to the governor, the environmental quality
5 council, and the public and shall accompany the proposal
6 through the existing agency review processes.

7 (2) The department of public service regulation, in
8 the exercise of its regulatory authority over rates and
9 charges of railroads, motor carriers, and public utilities,
10 is exempt from the provisions of parts 1 through 3.

11 (3) (a) ~~Until the board of oil and gas conservation~~
12 ~~adopts a programmatic environmental statement, but no later~~
13 ~~than~~ THE BOARD OF OIL AND GAS CONSERVATION ADOPTS A
14 PROGRAMMATIC ENVIRONMENTAL STATEMENT, BUT NO LATER THAN June
15 ~~30, 1989~~ 1991 DECEMBER 31, 1989, the issuance of a permit to
16 drill a well for oil or gas is not a major action of state
17 government as that term is used in subsection (1)(b)(iii).

18 (b) The board of oil and gas conservation ~~shall~~ may
19 SHALL adopt a programmatic statement by ~~June 30, 1989~~ 1991
20 DECEMBER 31, 1989, that must include but not be limited to:

21 (i) such environmental impacts as may be found to be
22 associated with the drilling for and production of oil and
23 gas in the major producing basins and ecosystems in Montana.

24 (ii) such methods of accomplishing drilling and
25 production of oil and gas as may be found to be necessary to

1 avoid permanent impairment of the environment or to mitigate
2 long-term impacts so that the environment and renewable
3 resources of the ecosystem may be returned to either
4 conditions similar to those existing before drilling or
5 production occurs or conditions that reflect a natural
6 progression of environmental change;

7 (iii) the process that will be employed by the board of
8 oil and gas conservation to evaluate such environmental
9 impacts of individual drilling proposals as may be found to
10 exist;

11 (iv) an appropriate method for incorporating such
12 environmental review as may be found to be necessary into
13 the board's rules and drill permitting process and for
14 accomplishing the review in an expedient manner;

15 (v) the maximum time periods that will be required to
16 complete the drill permitting process, including any
17 environmental review; and

18 (vi) a record of information and analysis for the board
19 of oil and gas conservation to rely upon in responding to
20 public and private concerns about drilling and production.

21 (c) The governor shall direct and have management
22 responsibility for the preparation of the programmatic
23 statement, including responsibility on behalf of the board
24 of oil and gas conservation for the disbursement and
25 expenditure of funds necessary to complete the statement.

1 The facilities and personnel of appropriate state agencies
2 must be used to the extent the governor deems necessary to
3 complete the statement. The governor shall forward the
4 completed draft programmatic statement to the board of oil
5 and gas conservation for hearing pursuant to the provisions
6 of the Montana Administrative Procedure Act, Title 2,
7 chapter 4. Following completion of a final programmatic
8 statement, the governor shall forward the statement to the
9 board for adoption and use in the issuance of permits to
10 drill for oil and gas.

11 (D) UNTIL THE PROGRAMMATIC ENVIRONMENTAL STATEMENT IS
12 ADOPTED, THE BOARD OF OIL AND GAS CONSERVATION SHALL PREPARE
13 A WRITTEN PROGRESS REPORT AFTER EACH REGULAR MEETING OF THE
14 BOARD AND AFTER ANY SPECIAL BOARD MEETING THAT ADDRESSES THE
15 ADOPTION OR IMPLEMENTATION OF THE PROGRAMMATIC ENVIRONMENTAL
16 STATEMENT. A COPY OF EACH REPORT MUST BE SENT TO THE
17 ENVIRONMENTAL QUALITY COUNCIL."

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